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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 570]

भोपाल, शनिवार, दिनांक 6 अक्टूबर 2018—आश्विन 14, शक 1940

नवीन एवं नवकरणीय ऊर्जा विभाग

मंत्रालय, वल्लभ भवन, भोपाल

भोपाल, दिनांक 6 अक्टूबर 2018

क्रमांक F 6-13/2016/साठ मंत्रि-परिषद् दिनांक 29 सितम्बर 2018 को सम्पन्न बैठक में, प्रदेश में नवीन एवं नवीकरणीय ऊर्जा मंत्रालय, भारत सरकार (MNRE) द्वारा स्वीकृत सौर ऊर्जा पार्क की स्थापना के संबंध में निर्णय अनुमोदित किये गये हैं। तदनुसार सर्वसाधारण की जानकारी के लिये उक्त का प्रकाशन "मध्यप्रदेश राजपत्र (असाधारण)" में किया जा रहा है।

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
मनु श्रीवास्तव, प्रमुख सचिव.

विषय - प्रदेश में नवीन एवं नवीकरणीय ऊर्जा मंत्रालय, भारत सरकार (MNRE) द्वारा स्वीकृत सौर ऊर्जा पार्क की स्थापना के संबंध में ।

- 1) प्रदेश में नवीन एवं नवीकरणीय ऊर्जा मंत्रालय, भारत सरकार की सौर ऊर्जा पार्क योजना के अंतर्गत स्वीकृत मंदसौर, नीमच, आगरा व शाजापुर में सौर पार्कों की स्थापना की जाए। इन सौर पार्कों का विकास, सौर पार्क परियोजना विकासक के रूप में रीवा अल्ट्रा मेगा सोलर लिमिटेड (RUMSL) द्वारा किया जाएगा।
- 2) इन सौर पार्कों की स्थापना हेतु नवीन एवं नवीकरणीय ऊर्जा विभाग की नीतियों के अंतर्गत शासकीय राजस्व भूमि उपलब्ध कराई जाए। इसके अतिरिक्त, एक चक भूमि की आवश्यकता के दृष्टिगत शासकीय भूमि से लगी हुई अथवा बीच में आने वाली निजी भूमि "आपसी सहमति से भूमि क्रय नीति" के अनुसार क्रय की जाकर, उपलब्ध कराई जावे।
- 3) नीमच, आगरा और शाजापुर सौर पार्क कुल 1500 मेगावाट क्षमता से म.प्र. पावर मैनेजमेंट कंपनी लिमिटेड (MPPMCL) को राज्य की सौर RPO की आपूर्ति/राज्य के उपयोग के लिये एवं राज्य में स्थित मेट्रो को विक्रय हेतु 3026 मिलियन यूनिट्स और भारतीय रेल को राज्य के बाहर उपयोग हेतु 782 मिलियन यूनिट्स प्रदाय की जाएगी, जिसमें आवश्यकतानुसार पुनरीक्षण के निर्णय हेतु विभाग को अधिकृत किया जावे।
- 4) यह सौर परियोजनाएं Central Transmission Utility (CTU) से संबद्ध की जाएं और CTU से संबद्धता साध्य न होने की दशा में State Transmission Utility संबद्ध की जावे। CTU से संबद्ध परियोजनाओं में न्यूनतम पारेषण शुल्क के उद्देश्य से Optimum Scheduling व्यवस्था लागू की जाए जिसके अंतर्गत राज्य को 1293 मेगावाट और भारतीय रेल को 207 मेगावाट के Long Term Access के अंतर्गत विद्युत प्रदाय की जावे। इसमें आवश्यकतानुसार पुनरीक्षण के निर्णय हेतु विभाग को अधिकृत किया जावे।
- 5) नीमच, आगरा व शाजापुर सौर पार्कों की स्थापना हेतु बिड प्रोसेस मैनेजमेंट की कार्यवाही RUMSL द्वारा की जावे। इस हेतु Coordination Committee गठित की जावे, जिसमें RUMSL, MPPMCL व अन्य क्रेता सदस्य हों।
- 6) सौर पार्कों में नवीकरणीय ऊर्जा परियोजनाओं के लिये 'भूमि उपयोग अनुज्ञा अनुबंध' (परिशिष्ट-1) एवं तृतीय पक्षकार {परियोजना ईकाई विकासक एवम पावर ग्रिड कॉर्पोरेशन ऑफ लिमिटेड अथवा म.प्र. राज्य पारेषण कंपनी} के साथ किये जाने वाला 'तृतीय पक्षकार भूमि उपयोग अनुज्ञा अनुबंध' (परिशिष्ट - 2 एवं 3) के प्रारूप लागू किये जावे। भूमि उपयोग अनुज्ञा अनुबंधों पर तत्कालीन आवश्यकताओं के दृष्टिगत नवीन एवं नवीकरणीय ऊर्जा विभाग संशोधन कर सकेगा।

LAND USE PERMISSION AGREEMENT

Annexure-1

FOR

DEVELOPMENT OF THE [●] SOLAR POWER [PROJECT or PARK]

TO BE SET UP AT [●] DISTRICT IN THE STATE OF MADHYA PRADESH

BETWEEN

COMMISSIONER, NEWAND RENEWABLE ENERGY, GOVERNMENT OF
MADHYA PRADESH, BHOPAL

AND

M/S [●] (*Insert name of Solar Power Park Developer*)

TABLE OF CONTENTS

1. DEFINITIONS & INTERPRETATION	7
2. EFFECTIVENESS, TERM AND CHARGES	14
3. CONDITIONS TO BE SATISFIED BY THE SPPD AND THE GOMP-NRE	18
4. OBLIGATIONS AND RESPONSIBILITIES.....	19
5. REPRESENTATIONS AND WARRANTIES	24
6. FORCE MAJEURE	26
7. TERMINATION.....	29
8. GOVERNING LAW, DISPUTE RESOLUTION AND JURISDICTION	31
9. INDEMNITY.....	33
10. MISCELLANEOUS	34
ANNEXURE I.....	38
ANNEXURE II	39
ANNEXURE III	40
ANNEXURE IV	41
ANNEXURE V	42
ANNEXURE VI.....	43
ANNEXURE VII	44
ANNEXURE VIII	45

[On Appropriate Stamp Paper]

LAND USE AND PERMISSION AGREEMENT

This Land Use Permission Agreement (Agreement) is entered into on this [●] day of [Month] [Year] at Bhopal, Madhya Pradesh:

BETWEEN

The Commissioner, New and Renewable Energy, Government of Madhya Pradesh, Bhopal having its office at Urja Bhawan, Shivaji Nagar, Bhopal (hereinafter referred to as "GoMP-NRE", which expression shall, unless repugnant to the context thereof, include its permitted successors, assignees and legal representatives) of the **FIRST PART**;

AND

M/s. [●], a company registered under the provisions of the Companies Act, 2013, having its registered office at [●] (Hereinafter referred to as "the Solar Power Park Developer or SPPD", which expression shall, unless repugnant to the context thereof, include its permitted successors, administrators and permitted assignees), through Mr./Ms [●], (Designation), who is duly authorized by the SPPD vide board resolution issued by its board of directors on [●] (date), to execute this Agreement of the **SECOND PART**;

The GoMP-NRE and the SPPD shall collectively be referred to as the **Parties** and individually as a **Party**.

WHEREAS:

- A. With a view to provide a boost to renewable energy development in the state of Madhya Pradesh, the Government of Madhya Pradesh (GoMP) and the Government of India (GoI) have decided to set up a [●] MW solar [project[(s)] or park]in [●] district(s)of the state of Madhya Pradesh (“[●] Solar [Project or Park]”).
- B. GoMP-NRE (New and Renewable Energy Department of Government of Madhya Pradesh) is the Nodal Department of the GoMP, vested with the responsibility to deal with inter alia all the matters connected with implementation of solar power based projects developed under the MP Solar Policy (*as defined below*). As per the policies of the Government of Madhya Pradesh, in case of land owned by the Revenue Department, GoMP or any other GoMP department, such land may be transferred to GoMP-NRE, and GoMP-NRE is further entitled to subsequently give permission for use of land for development of solar power project(s).
- C. The SPPD has been incorporated as [●] (*insert relevant details of incorporation of the SPPD*). The SPPD has been designated as the Solar Power Park Developer for the [●] Solar Park. [[●] Solar Project is a part of [●] Solar Park].
- D. The [●] Solar [Project or Park] will be [developed or split] into [●] units ([individually] referred to as Unit [and collectively referred to as Units]) of ground mounted grid-connected solar photovoltaic power plants of [●] MW capacity [each], to be developed on pre-identified land parcels inside the [●] Solar [Project or Park]. The Unit[(s)] will be connected to the [inter][intra]-state transmission system through a [● kV] substation to be [constructed,] operated and maintained by [Power Grid Corporation of India Limited (PGCIL)][Madhya Pradesh Power Transmission Company Limited (MPPTCL)] Sub-station).
- E. The land owned by the Revenue Department, GoMP details of which are annexed at ANNEXURE I, has been transferred to GoMP-NRE through certain orders passed by the GoMP. The details of such land and the orders passed by the GoMP are set out at ANNEXURE I. Further, to ensure contiguity of land, the GoMP has

purchased certain portion of the land for the Solar [Project or Park] under the Mutual Consent Land Purchase Policy. The details of such land are included in ANNEXURE II.

- F. For the purposes of setting up the [●] Solar [Project or Park] and the [PGCIL or MPPTCL] Sub-station, GOMP-NRE has the right to grant permission for use of the land, including the land required for the development of the Unit[(s)] and for the development of the [PGCIL or MPPTCL] Sub-station, to the SPPD ([●] Solar [Project or Park] Land). The GOMP-NRE has, through the District Renewable Energy Officer (DREO), handed over possession of the land to the SPPD as per letter no. [●] dated [●] which is annexed as ANNEXURE III to this Agreement.
- G. GOMP-NRE and the SPPD shall enter into a separate land use permission agreement (Unit LUPA) with the Solar Project Developer[(s)] through which GOMP-NRE and the SPPD shall grant the Solar Project Developer[(s)] permission for use of a part of the [●] Solar [Project or Park] Land for developing, operating and maintaining the Unit[(s)] (Unit Land), the details of which are set out in ANNEXURE IV. Further, GOMP-NRE and the SPPD shall also enter into land use permission agreement with the company developing Sub-station [PGCIL or MPPTCL] (PGCIL or MPPTCL LUPA) through which the GOMP-NRE shall grant [PGCIL or MPPTCL] the permission to use a part of the [●] Solar [Project or Park] Land for the construction, operation and maintenance of the [PGCIL or MPPTCL] Sub-station ([PGCIL or MPPTCL] Land), the details of which are set out in ANNEXURE V.
- H. The Parties now wish to enter into this Agreement to grant the SPPD the right to undertake the use of the [●] Solar [Project or Park] Land, including entering into the Unit LUPA and [PGCIL or MPPTCL] LUPA¹, in accordance with the terms and conditions set forth in this Agreement for development of the [●] Solar [Project or Park] and the [PGCIL or MPPTCL] Sub-station.

NOW, THEREFORE, in consideration of the premises and mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which

¹ [PGCIL or MPPTCL] LUPA and its related terms shall be used only when there are requirement of [PGCIL or MPPTCL] LUPA and its related activities in the Development of Solar [Park or Project].

is hereby acknowledged and intending to be legally bound hereby, both the Parties agree to the terms and conditions set forth as follows:

1. DEFINITIONS & INTERPRETATION

1.1. Definitions

In this Agreement, following words and expression shall, unless repugnant to the context or meaning thereof, have the meanings hereinafter respectively assigned to them:

“Administrative Department” shall mean the New and Renewable Energy Department of GoMP.

“Agreement” means this Land Use Permission Agreement together with Annexures hereto.

“Applicable Laws” means all laws in force and effect as on the Effective Date and which maybe promulgated or brought in force and effect in India, including in the state of Madhya Pradesh after the Effective Date and all applicable statutes, enactments, laws, ordinances, bye-laws, rules, regulations, guidelines, notifications, notices, and/or judgments, decrees, injunctions, writs or orders of any Governmental Instrumentality, court, statutory or regulatory authority, tribunal, board or stock exchange in any jurisdiction as may be in force and effect during the subsistence of this Agreement as may be applicable to each of the Parties respectively.

“Applicable Permits” means any permissions, clearances, concessions, authorizations, consents, licenses, permits, rulings, exemptions, no-objections, resolutions, filings, orders, notarizations, lodgements or registrations or approvals of whatsoever nature that are required to be obtained by the SPPD, or the Solar Project Developer[(s)], from time to time in connection with the Solar [Project or Park] and for undertaking, performing or discharging its obligations under this Agreement in accordance with Applicable Laws.

“Appropriate Authority” shall mean the GoMP or Government agency authorized by the GoMP, or the SPPD authorized under the PPA(s) for issuing the commissioning certificate for the Unit[s] of Solar [Project or Park]

“Agreement Period” shall have the meaning as ascribed thereto in Article 2.2 of this

Agreement.

“Commissioning Certificate” means the certificate issued by the Appropriate Authority to the Solar Project Developer[(s)] certifying that the Solar [Project or Park]has been commissioned by the Solar Project Developer[(s)], as will be notified by the SPPD to GoMP-NRE.

“Day” means a 24 hour period beginning at 00:00:00 hours Indian Standard Time and ending at 23:59:59 hours Indian Standard Time.

“Dispute” shall have the meaning ascribed to it in Article 8.2.

“Dispute Meeting” shall have the meaning ascribed to it in Article 8.2.

“Dispute Notice” shall have the meaning ascribed to it in Article 8.2.

“DREO” shall have the meaning ascribed to it in Recital F.

“Effective Date” shall mean the date of signing of this Agreement.

“Financial Assistance” means all funded and non-funded financial assistance, including loans, advances and guarantees or any re-financing, that the Solar Project Developer[(s)] may avail of for the Solar [Project or Park]from the Lenders.

“Financing Documents” means collectively, the documents executed or to be executed with Lenders, in respect of the Financial Assistance and includes any document providing security for the Financial Assistance.

“Gol” means the Government of India.

“GoMP” means the Government of Madhya Pradesh.

“GoMP-NRE” means the New and Renewable Energy Department of GoMP.

“Governmental Instrumentality” means the:

- GoMP and/ or GoI; and/or
- any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of the GoMP; and/or
- any ministry, department, board, authority, agency, commission under the direct or indirect control of GoI; and/or
- any political sub-division including any court or commission or tribunal or judicial or quasi-judicial body in the state Madhya Pradesh or/and includes the MPERC; and/or
- Supreme Court of India or commission or tribunal or judicial or quasi- judicial body of the GoI but excluding the SPPD, having jurisdiction over the [●] Solar [Project or Park] Land or any portion thereof and the performance of obligations and exercise of rights of the Parties in accordance with the terms of this Agreement.

“Implementation Support Agreement” means the implementation support agreement entered into or to be entered into and signed between the SPPD and Solar Project Developer(s) and annexed as ANNEXURE VII.

“INR” means Indian Rupees, the lawful currency in India.

“Internal Evacuation Infrastructure” means collectively, the following infrastructure to be constructed and commissioned by the SPPD for the [●] Solar [Project or Park] [●]:
[Insert details of different components of Internal Evacuation]

“Internal Infrastructure” means the infrastructure created or to be created, including Internal Evacuation Infrastructure, for the [●] Solar [Project or Park], by the SPPD, to which access has been provided or will be provided to the Solar Project Developer for the use of the asset for the life of the Solar [Project or Park] in accordance with the terms of the Implementation Support Agreement.

“Land Use Charges” shall have the meaning ascribed to it in Article 2.5.

“Lenders” means to include banks, financial institutions, funds and agents or trustees of debentureholders, including their successors and assignees, who have agreed to guarantee or provide the Financial Assistance to the Solar Project Developer[(s)] under the Financing Documents for implementing the Unit.

“Loss” means all damages, losses, liabilities, costs, expenses, including legal and other professional charges and expenses and charges arising under statute, contract or otherwise in connection with judgements, proceedings, claims, internal costs or demands.

“Material Adverse Effect” means the effect of any act or event which causes a material and adverse impairment in the ability of any of the Parties to exercise their rights or perform any of its obligations or consummate transactions under and in accordance with the provisions of this Agreement.

[“MPPTCL” means the Madhya Pradesh Power Transmission Company Limited (or its successor, permitted assignees and legal representatives).]

“MP Solar Policy” means the Policy for Implementation of Solar Power Based Projects in Madhya Pradesh, 2012, including any amendments thereto, issued by the GoMP.

“Mutual Consent Land Purchase Policy” means the policy of GoMP for the Purchase of Land with Mutual Consent dated 12th November 2014, including any amendments thereto.

“Permanent Structures” shall mean the permanent works forming part of the [●] Solar [Project or Park] that are required to be constructed, installed and maintained as such for the implementation of the Unit[(s)].

“Permanent Ancillary Structures” shall mean the permanent ancillary works required for Unit related activities like construction of office, staff houses, rest house, guest house, canteen etc.

[“PGCIL” means Power Grid Corporation of India Limited (or its permitted successor, assignees and legal representatives).]

[“PGCIL][MPPTCL] Sub-station” has the meaning ascribed to it in Recital D.

["PGCIL][MPPTCL] Land" has the meaning ascribed to it in Recital G.

["PGCIL][MPPTCL] LUPA" has the meaning ascribed to it in Recital G.

"Power Purchase Agreement" or **"PPA"** means the power purchase agreement to be executed between the Solar Project Developer, [the SPPD] and Procurer, annexed as ANNEXURE VIII.

"Procurer" means the entity who is procuring power from the Solar Project Developer in accordance with the terms of the PPA.

"Prudent Utility Practices" means the exercise of that degree of skill, diligence and prudence and those practices, methods, specifications and standards of equipment, safety and performance, as may change from time to time and which are reasonably and ordinarily expected to be used by a skilled and experienced owner, contractor or operator engaged in installation, management, ownership, operation and maintenance of facilities, equipment or systems of the type and size similar to the Unit.

"[●] Solar [Project or Park]" has the meaning ascribed to it in Recital A.

"[●] Solar [Project or Park] Land" has the meaning ascribed to it in Recital F.

"Solar Project Developer[(s)]" means the entity(ies) registered at GoMP-NRE for the development of the Unit(s) in [●] Solar Project or Park.

"Taxes" means any Indian taxes including levies, imposts, cess, duties and other forms of taxation, including income tax, sales tax, value added tax, octroy, entry tax, corporation profits tax, advance corporation tax, capital gains tax, residential and property tax, customs and other import and export duties, excise duties, stamp duty or capital duty (whether central, state or local) on the goods, materials, equipment and services incorporated in and forming part of the Unit charged, levied or imposed by any Governmental Instrumentality, but excludes any interest, penalties and other sums in relation thereto imposed on any account whatsoever.

"Temporary Structures" shall mean all temporary works of any kind other than

permanent structures required to be erected in connection with the implementation of the Unit and that are incidental or ancillary to the design, engineering and construction of the Unit and are erected/installed and maintained till the Unit COD and removed thereafter.

“Unit[(s)]” shall have the meaning ascribed to it in Recital D.

[“Unit COD” shall mean the date on which the commissioning certificate has been issued for the full[●] MW capacity of the Unit[(s)] and, as notified by the SPPD to GoMP-NRE.]

“Unit Land” shall have the meaning ascribed to it in Recital G.

“Unit LUPA” shall have the meaning ascribed to it in Recital G.

[“Unit SCOD” means the scheduled commercial operations date of the Unit, as notified by the SPPD to GoMP-NRE.]

“Wilful Default” means a deliberate or conscious breach of this Agreement by any of the Parties which has a Material Adverse Effect on the other Party.

“Year(s)” shall mean 365 Days or 366 Days in case of leap year when February comprises of 29 Days.

Interpretation

In this Agreement, unless the context otherwise requires:

- (a) Any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder.
- (b) The references to persons and words denoting natural persons shall include bodies corporate and partnerships, joint ventures and statutory and other authorities and entities.
- (c) The nomenclature of the Agreement, headings and paragraph numbers are for the convenience of reference and shall be ignored in construing or interpreting the Agreement.
- (d) Any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference provided that this Article shall not operate so as to increase the liability or obligations of any Party hereunder or pursuant hereto in any manner whatsoever.
- (e) Any reference to any period commencing "from" a specified Day or date and "till" or until" a specified Day or date shall include both such Days and dates.

2. EFFECTIVENESS, TERM AND CHARGES

2.1. Effectiveness

Subject to Article 3.1, this Agreement shall come into effect from the Effective Date of this Agreement.

2.2. Agreement Period

- (a) With respect to the Unit[(s)] in the [●] Solar [Project or Park], this Agreement shall remain in force from the Effective Date, for a period of 25 Years from the Unit [SCOD/COD]² of the last Unit of the [●] Solar [Project or Park]. The SPPD shall issue a certificate to GoMP-NRE notifying it of the Unit [SCOD or COD] for such Unit.
- (b) With respect to the [PGCIL or MPPTCL] Sub-station, this Agreement shall remain in force from the Effective Date for a period of [●] Years from the date on which the [PGCIL or MPPTCL] Sub-station is commissioned. Within [●] (in words) Days of the date on which the [PGCIL or MPPTCL] Sub-station is commissioned, the SPPD shall issue a notice to GoMP-NRE notifying it of the date on which the [PGCIL or MPPTCL] Sub-station was commissioned.

2.3. Early Termination

This Agreement or a part thereof may be terminated before the expiry of the Agreement Period in respect of a portion of the [●] Solar [Project or Park] Land which has been given for use to the SPPD and then subsequently to the Solar Project Developer [(s)] or PGCIL or MPPTCL, as the case may be, provided that the SPPD issues a notice of termination for that part or all of the land, as the case may be, to GoMP-NRE pursuant to Article 7.2 of this Agreement.

2.4. Procedure upon on expiry of this Agreement

- (a) In case of expiry of the Agreement Period or early termination of this Agreement for that portion of the [●] Solar [Project or Park] Land which has been given for use for the Unit[(s)] to the SPPD and then subsequently to the Solar Project Developer[(s)], or a part thereof, pursuant to Article 7.2 of this

²in accordance with PPA

Agreement, the SPPD shall, at its own risk and cost, immediately dismantle, or cause the dismantling of the Unit[(s)] and remove the Permanent Structures, Permanent Ancillary Structures and Temporary Structures, including all plant, equipment, personnel, machinery and other structures on the Unit Land, so that the Unit Land given for use is vacant within [●] (in words) Days from the date of expiry of the Agreement Period or termination, including from the date of partial termination of this Agreement for that portion of the [●] Solar [Project or Park] Land which has been given for use for the Unit[(s)] to the SPPD and then subsequently to the Solar Project Developer[(s)] in accordance with Article 7. After such [●] (in words) Days' period, the GoMP-NRE shall have the full right on all the property left over on that part of the [●] Solar [Project or Park] Land without payment of any compensation to the SPPD and will be free to dispose it off in any manner it chooses.

- (b) In case of expiry of the Agreement Period or early termination of this Agreement, for that portion of the [●] Solar [Project or Park] Land which has been given for use of the Internal Infrastructure and the [PGCIL or MPPTCL] Sub-Station, the procedure set out in Article 2.41(c) to 2.4(e) shall be followed.
- (c) At least [●] (in words) Days prior to expiry or early termination of the Agreement, the SPPD, or [PGCIL or MPPTCL] in accordance with the terms of the [PGCIL or MPPTCL] LUPA, may request GoMP-NRE for a renewal or fresh allotment of the land use permission for the [●] Solar [Project or Park] Land, or any part thereof, for such further period and on such terms as may be mutually agreeable to the Parties and in accordance with the policies of the GoMP. The Parties agree that any such extension shall be at the sole discretion of GoMP-NRE. The GoMP-NRE shall communicate, in writing, its decision on either the SPPD or [PGCIL's or MPPTCL's] request at least [●] (in words) Days prior to the expiry of this Agreement. It is clarified that [PGCIL or MPPTCL] may request for a renewal or fresh allotment of the land use permission for the [PGCIL or MPPTCL] Land, in accordance with the terms of the [PGCIL or MPPTCL] LUPA.
- (d) Subject to the Parties and [PGCIL or MPPTCL] agreeing to an extension, or fresh allotment of the land use permission pursuant to Article 2.4(c) above or

pursuant to the terms of the [PGCIL or MPPTCL] LUPA, as the case may be, upon the expiry or termination of this Agreement in accordance with the terms hereof, GoMP-NRE will have the right to transfer the Internal Infrastructure [and/or the PGCIL Sub-station] to the MPPTCL (or its successor and permitted assignees), upon the payment of compensation to [the SPPD and/or PGCIL] which shall be for an amount equal to the depreciated value of the Internal Infrastructure [and/or PGCIL Sub-station, respectively]. The GoMP-NRE shall communicate, in writing, its decision to either the SPPD or [PGCIL or MPPTCL] at least [●] (in words) Days prior to the expiry of this Agreement.

- (e) In the event that GoMP-NRE, upon the expiry or termination of this Agreement, decides against the renewal or fresh allotment of the land use permission pursuant to Article 2.4(c) above and further decides against transferring the Internal Infrastructure and/or the [PGCIL or MPPTCL] Sub-station pursuant to Article 2.4(d) above, the SPPD and/or [PGCIL or MPPTCL] shall dismantle and remove the Internal Infrastructure and the [PGCIL or MPPTCL] Sub-station, respectively, from the [●] Solar [Project or Park] Land at its cost and risk and handover vacant and peaceful possession of the land to GoMP-NRE within [●] (in words) Days of the date of expiry or termination as the case may be. In the event that the SPPD and/or [PGCIL or MPPTCL] fails to remove the Internal Infrastructure and/or [PGCIL or MPPTCL] Sub-station, respectively, and handover possession of the land in the manner prescribed hereinabove, GoMP-NRE will have the right to remove and dispose of the [PGCIL or MPPTCL] Substation and Internal Infrastructure in the manner it deems fit, at the cost and risk of PGCIL and the SPPD, respectively, and shall take over possession of the [●] Solar [Project or Park] Land. Any monies that GoMP-NRE recovers from disposal of the [PGCIL or MPPTCL] Sub-station and Internal Infrastructure will be returned to [PGCIL or MPPTCL] and the SPPD, respectively, after adjusting all expenses incurred by GoMP-NRE in removal of these assets and takeover of vacant possession of the [●] Solar [Project or Park] Land.

2.5. Land Use Charges

- (a) The SPPD shall pay all required charges for the permission to use the [●] Solar [Project or Park] Land, which is mentioned in ANNEXURE I, inclusive of all Taxes, from the Effective Date of this Agreement, in accordance with the

policies of the GoMP for projects under the Administrative Department (Land Use Charges) to "Departmental Receipt Head". It is clarified for the avoidance of doubt that, even if one or more of the Unit LUPA[(s)] or the [PGCIL or MPPTCL] LUPA is/are terminated, the SPPD will continue to be liable to pay the Land Use Charges until this Agreement is terminated for such part of the land.

- (b) No charges will be payable by the SPPD to GoMP in respect of those land parcels which have been procured by the SPPD for [●] Solar [Project or Park] under the Mutual Consent Land Purchase Policy as set out at ANNEXURE II and for which the SPPD has paid adequate compensation in accordance with Mutual Consent Land Purchase Policy.

3. **CONDITIONS TO BE SATISFIED BY THE SPPD AND THE GOMP-NRE**

3.1. **As a condition precedent to the effectiveness of this Agreement:**

The GoMP-NRE has, through its authorized DREO handed over possession of [●] hectares of land located at villages [●] to the SPPD for its use for the [●] Solar [Project or Park] on or before the Effective Date of this Agreement. The SPPD hereby acknowledges that it has received uninterrupted access to and possession of such land for its use for the [●] Solar [Project or Park], the details of which are in ANNEXURE IV and ANNEXURE V to this Agreement. It is clarified that the land shall remain in the ownership of GoMP-NRE, and that the SPPD, the Solar Project Developer[(s)] or [PGCIL or MPPTCL], are authorized only to use it for the purpose of developing, commissioning, operating and maintaining the [●] Solar [Project or Park], including the Unit[s] and the [PGCIL or MPPTCL] Sub-station for the Agreement Period, in accordance with the provisions of this Agreement.

3.2 **Satisfaction of conditions subsequent by the SPPD:**

The SPPD shall ensure that the Solar Project Developer[(s)] shall commence construction of the respective Unit[s] within [●] [(in words)]³ months of the signing of the Unit LUPA for such Unit and shall achieve Unit COD within the timelines set out in the Unit LUPA, or as may be extended by GoMP-NRE or Appropriate Authority. The extension if granted shall be the part of this Agreement.

- 3.3 In the event that the SPPD fails to achieve the conditions specified in Article 3.2 above, it may issue a notice of termination to GoMP-NRE in accordance with Article 7 of this Agreement.

³ In accordance with PPA

4. OBLIGATIONS AND RESPONSIBILITIES

4.1 Obligations of the SPPD

- (a) The SPPD undertakes to pay the Land Use Charges as per Article 2.5, in accordance with the policies of the GoMP.
- (b) The SPPD shall work with and co-operate in good faith with the GoMP-NRE with respect to all of the obligations and rights hereunder.
- (c) The SPPD shall not use the land for any purpose other than those included in definitions of Permanent Structures, Permanent Ancillary Structures and Temporary Structures and the [PGCIL or MPPTCL] Sub-station.
- (d) If at any stage during the tenure of this Agreement, it is found that the [●] Solar [Project or Park] Land, or any part thereof, is being used for any purpose other than as expressly allowed under this Agreement, then the land use permission for that portion of the [●] Solar [Project or Park] Land may be cancelled, subject to the termination of the PPA and the Unit LUPA for that respective Unit.
- (e) The SPPD shall not allow use of more than 5% of the Unit Land(s) for the Permanent Ancillary Structures.
- (f) The SPPD shall require the Solar Project Developer[(s)] and [PGCIL or MPPTCL] to operate the Unit and the [PGCIL or MPPTCL] Sub-station respectively, as per the Prudent Utility Practices throughout the Agreement Period.
- (g) The SPPD shall, for the purpose of safety, may require the Solar Project Developer[(s)] and [PGCIL or MPPTCL] to fence the Unit Land and the [PGCIL or MPPTCL] Land, respectively.
- (h) The SPPD shall be liable for environment protection measures within the [●] Solar [Project or Park] Land in accordance with Applicable Laws, and

- Applicable Permits, and shall not do anything adversely affecting the environment.
- (i) In the event that the SPPD requires to dig any well or tube well, or otherwise take water from any water source, in the [●] Solar [Project or Park] Land, it shall only do so in accordance with Applicable Laws and Applicable Permits, and shall not do anything adversely affecting the environment.
- (j) While using the [●] Solar [Project or Park] Land, if the SPPD causes any harm or injury to any person/ animal, it shall be liable to pay compensation or damages in the same manner as a tenant of land is generally liable to pay.
- (k) In the event that the SPPD requires to cut any trees on the [●] Solar [Project or Park] Land, it shall do so only in accordance with Applicable Laws and Applicable Permits.
- (l) Monitoring and supervision of the [●] Solar [Project or Park]:
The SPPD shall, at all times, grant access to the [●] Solar [Project or Park] Land to the authorized representatives of the GoMP-NRE and to the persons duly authorized by any Governmental Instrumentality having jurisdiction over the [●] Solar [Project or Park]. Safety measures: the SPPD shall ensure proper safety measures during the implementation of the Unit, including any geological study, construction and testing on the [●] Solar [Project or Park] Land, and shall meet minimum safety standards prescribed under Applicable Laws for the safety of all personnel engaged in the design, construction, operation, maintenance and repair of the Unit. The GoMP-NRE shall have the right to institute an appropriate mechanism to ensure compliance by the SPPD in this regard.
- (m) Alternative facilities:
In case any existing facilities including, but not limited to, roads, bridges, buildings and communication system(s), are affected because of the implementation of the Unit or the [PGCIL or MPPTCL] Sub-station on the [●] Solar [Project or Park] Land, the SPPD shall be responsible and bear the cost of taking remedial measures. The SPPD, or any third party developer including [PGCIL or MPPTCL], shall not interfere with any of the existing facilities, till an alternate facility is created as approved by the concerned Governmental

Instrumentality, unless an approval is provided otherwise, in writing by the concerned Governmental Instrumentality.

(n) **Maintaining Ecological Balance:**

The SPPD shall be responsible for maintaining the ecological balance by preventing deforestation, water pollution and defacement of natural landscape in the vicinity of the [●] Solar [Project or Park] Land. The SPPD shall take all reasonable measures to prevent any unnecessary destruction, scarring or defacement of the natural surroundings in the vicinity of the [●] Solar [Project or Park] Land.

(o) **Use of facilities:** Subject to availability, security, safety, Applicable Law and operational factors being met, the SPPD shall permit the use, free of cost, by the GoMP and the general public, of all service roads constructed and maintained by it for the Unit after the Unit COD and for the [PGCIL or MPPTCL] Sub-station after its commissioning.

(p) **Archaeological findings, treasures etc.:** All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on or in the [●] Solar [Project or Park] Land shall be deemed to be the absolute property of GoMP. The SPPD shall take reasonable precautions to prevent its workmen or any other persons from damaging any such article or thing. The SPPD shall arrange to hand over the same to the GoMP-NRE free of cost, provided that, in case any precious or semi-precious material is located, the SPPD shall inform the GoMP-NRE immediately and abide by the directives of the GoMP-NRE which shall be communicated within a period of [●] (in words) Days from the date of receipt of such intimation from the SPPD.

(q) **The SPPD, while providing employment for construction activities, shall endeavor to give preference to locals as per their availability and suitability and shall also give preference to locally manufactured materials/components for construction activities, subject to availability and suitability of the same.**

(r) **The SPPD shall handover possession of any additional land that is procured, over**

and above the land mentioned in Article 3.1 above, to the Solar Project Developer[(s)] for the development of the Unit(s) in accordance with the terms of the Unit LUPA of the respective Unit. The Parties hereby agree that as and when any additional land is procured, the details of such additional land shall be included in this Agreement in the form of an annexure and such land shall form a part of the [●] Solar [Project or Park] Land.

4.2 Obligations and responsibilities of the GoMP-NRE

(a) Land Use Permission:

The GoMP-NRE hereby grants, and the SPPD hereby accepts the right to use the [●] Solar [Project or Park] Land (details of which are set out in ANNEXURE IV and ANNEXURE V to this Agreement) and any additional land that may be procured (the details of which will be attached as an ANNEXURE VI to this Agreement), for the [●] Solar [Project or Park], for the sole and exclusive purpose of developing the [●] Solar [Project or Park]. The GoMP-NRE shall make the [●] Solar [Project or Park] Land available through the DREO or its authorized representative in accordance with Article 3.1 of this Agreement.

(b) Land Use Permission for third party participation:

The SPPD, who has been given permission for land use under this Agreement, intends to set up the Units along with third party participation. Therefore, the land use permission for the Unit Land will be given to such third party on such terms and conditions that are specified by GoMP-NRE. GoMP-NRE, the SPPD and the third party shall be required to enter into a separate land use permission agreement for the use of the Unit Land on which the Unit[(s)] is proposed to be developed by the third party. It is clarified for the avoidance of doubt that for the [●] Solar [Project or Park], the GoMP-NRE, the SPPD and the Solar Project Developer[(s)] shall enter into a Unit LUPA.

Further, the GoMP-NRE shall also grant [PGCIL or MPPTCL] land use permission for the development of the [PGCIL or MPPTCL] Sub-station on such terms and conditions that are specified by GoMP-NRE. GoMP-NRE, the SPPD and [PGCIL or MPPTCL] shall enter into a separate land use permission

agreement for the use of the [PGCIL or MPPTCL] Land for the development of the [PGCIL or MPPTCL] Sub-station.

(c) Right to step-in or substitution:

The GoMP-NRE shall permit the Lenders the right to step-in or substitute the Solar Project Developer[(s)] in pursuance of the Financing Documents by executing a substitution agreement in accordance with the terms of the Unit LUPA.

(d) Assignment:

The [●] Solar [Project/Park] Land given for use under this Agreement for development of the Unit[s] and the [PGCIL or MPPTCL] Sub-station shall not be assigned or transferred by the Solar Project Developer[(s)] or [PGCIL or MPPTCL] to any other party for any purpose, including for the purpose of financing the Units. To the extent required under the Financing Documents, GOMP-NRE shall permit the Solar Project Developer[(s)] to assign its rights, under the Unit LUPA, to a Lender in accordance with the terms of the Unit LUPA, provided that nothing contained in this Article shall absolve the Solar Project Developer[(s)] from its responsibility to perform or discharge any of its obligations under and in accordance with the provisions of the Unit LUPA. Further, if the SPD is empowered in accordance with the provisions of the Power Purchase Agreement (PPA) to assign or transfer the Unit[s] to a third party and the SPD decides to so assign or transfer the Units, the Parties hereby agree to do all acts required to novate the Unit LUPA for the relevant Unit in favour of the third party.

(e) Upgradation of roads and bridges:

The GoMP-NRE shall permit the SPPD to construct roads, bridges, culverts, and other infrastructure as considered necessary for the Units or the [PGCIL or MPPTCL] Sub-station on the [●] Solar [Project or Park] Land in consultation with the relevant Governmental Instrumentality at the cost and risk of the SPPD, or the Solar Project Developer[(s)] and/or [PGCIL or MPPTCL], as the case may be.

5. REPRESENTATIONS AND WARRANTIES

5.1. Representations and Warranties of the SPPD

The SPPD represents and warrants to the GoMP-NRE that as of the Effective Date:

- (a) it is duly organized and validly existing under the laws of India, and has all requisite power and has been duly authorized to execute and consummate this Agreement;
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) this Agreement constitutes its legal, valid and binding obligation, enforceable against the SPPD in accordance with its terms; and
- (d) the consummation of the transactions contemplated by this Agreement on the part of the SPPD will not violate any provision of, nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the SPPD is a party or to which the SPPD is bound, which violation, default or power has not been waived.

5.2 Representations and Warranties of the GoMP

The GoMP-NRE represents and warrants to the SPPD that as of the Effective Date:

- (a) The GoMP-NRE has all requisite powers and has been duly authorized to execute and consummate this Agreement;
- (b) The execution and delivery of this Agreement by the GoMP-NRE does not violate the provision of any existing Applicable Law, or of agency or of any contract, undertaking or agreement, to which the GoMP-NRE is a party or which is binding on GoMP-NRE; and
- (c) The [●] Solar [Project or Park] Land has been procured by GoMP-NRE in accordance with Applicable Laws and policies of the GoMP.

6. FORCE MAJEURE

6.1 Subject to Article 6.5, Force Majeure shall mean any event or circumstances or combination of events or circumstances that wholly or partly prevents or unavoidably delays any Party in the performance of its obligations under the Agreement, but only if and to the extent that such events and circumstances are not within the reasonable control, directly or indirectly, of the affected Party and could not have been avoided even if the affected Party had taken reasonable care or complied with Prudent Utility Practices and are on account of:

- (a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the Units), earthquake, volcanic eruption, landslide, flood, cloud burst, cyclone, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last 100 (hundred) years;
- (b) Compulsory acquisition by any Governmental Instrumentality under the GoMP or the GoI of any material assets or rights of the SPPD;
- (c) The unlawful, unreasonable or discriminatory revocation of, or refusal to renew, any Applicable Permits required by the SPPD to perform its obligations under this Agreement or any unlawful, unreasonable or discriminatory refusal to grant any Applicable Permits required for the operation of the Units on the [●] Solar [Project or Park] Land, provided that a competent court of law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes the same down;
- (d) Any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo;
- (e) revolution, riot, insurrection, terrorist or military action.

6.2 In the event a Party is rendered unable to perform any obligations required to be performed by it under the Agreement by Force Majeure, the particular obligations shall, upon notification to the other Party, be suspended for the

period of Force Majeure.

- 6.3 Upon the occurrence of an event of Force Majeure, the Party claiming that it has been rendered unable to perform any of its material obligations under the Agreement, shall notify the other Party in writing within [●] (in words) Days of the commencement thereof giving the particulars and satisfactory evidence in support of its claim. Upon termination of such event of Force Majeure, the affected Party shall, within [●] (in words) Days of its termination, intimate the other Party of such termination.
- 6.4 Time for performance of the relative obligations suspended by Force Majeure shall then stand extended by the period of delay, which is directly attributable to Force Majeure. The Party giving, such notice shall be excused from timely performance of its obligations under the Agreement, for so long as the relevant event of Force Majeure continues and to the extent that such Party's performance is prevented, hindered or delayed, provided the Party or Parties affected by the event, of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its performance of the obligations under the Agreement.
- 6.5 Force Majeure shall expressly not include the following, except to the extent resulting from a Force Majeure:
- (a) Unavailability, late delivery or changes in cost of plant, machinery, equipment, materials, spare parts, or consumables for the Unit[s];
 - (b) A delay in the performance by any contractor[(s)];
 - (c) Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
 - (d) Strikes or labour disturbance at the facilities of the affected Party;
 - (e) Insufficiency of finances or funds or the Agreement becoming onerous to perform;

(f) Non-performance caused by, or connected with, non-performing Party's:

- (i) Negligent or intentional acts, errors or omissions,
- (ii) Failure to comply with any Applicable Law, and
- (iii) Breach of or default under the Agreement.

7. TERMINATION

7.1 The Parties agree and acknowledge that this Agreement shall not be terminated by any Party for convenience.

7.2 The SPPD may notify GoMP-NRE of its intention to terminate this Agreement, in whole or in part for that portion of the [●] Solar [Project or Park] Land as may be required, upon the occurrence of the following events:

- (a) Termination of any, or all, of the Unit LUPA[(s)] if the Solar Project Developer[(s)] fail(s) to commence construction of the Unit[(s)], in accordance with the [respective] Unit LUPA, within [●] [(in words)] months of the signing of such Unit LUPA[(s)] or fails to achieve Unit COD, as the case may be, within the timelines set out in the respective Unit LUPA[(s)];
- (b) In the event that the PPA for [any] Unit is terminated due to the relevant Solar Project Developer's default and if neither Procurer nor the SPPD has decided to exercise their right to transfer all assets of the Solar Project Developer[(s)] in that Unit;
- (c) In the event that [PGCIL or MPPTCL] fails to construct and commission the [PGCIL or MPPTCL] Sub-station within [●] [(in words)] months from the date of signing of the [PGCIL or MPPTCL] LUPA; or
- (d) In the event that the Unit LUPA(s) or [PGCIL or MPPTCL] LUPA is terminated due to a force majeure event pursuant to the Unit LUPA(s) and [PGCIL or MPPTCL] LUPA, respectively.

7.3 Upon receiving a notice of termination from the SPPD under Article 7.2 and subject to the payment of any outstanding Land Use Charges by the SPPD, GoMP-NRE and the SPPD may mutually terminate this Agreement or the relevant part thereof in respect of all or any part of the [●] Solar [Project or Park] Land, as the case may be. In the event of the termination of a part of this Agreement pursuant to this Article 7.3, the Parties hereby agree, without requirement of any further act or notice, to continue to perform their roles and functions and continue to undertake all obligations as contained in this

Agreement, for that part of the [●] Solar [Project or Park] Land for which this Agreement that has not been terminated.

- 7.4 In the event that the PPA for [any] Unit[(s)] is terminated due to a Procurer's default and the respective Solar Project Developer[(s)] chooses to accept the termination compensation from Procurer and transfer the Unit to Procurer or its nominee, the Parties hereby agree to do all acts required to novate the Unit LUPA for that respective Unit in favour of Procurer or its nominee.
- 7.5 In the event that the PPA for [any] Unit is terminated due to a Solar Project Developer's default and either Procurer or the SPPD choose to seek a transfer the Unit, the Parties hereby agree to do all acts required to novate the Unit LUPA for that respective Unit in favour of either Procurer or the SPPD, or any of their nominees.
- 7.6 It is clarified for the avoidance of doubt that if the PPA is terminated for a Procurer's default and the Solar Project Developer[(s)] decide(s) against transferring the Unit(s) to Procurer, GoMP-NRE and the SPPD shall not have any right to terminate this Agreement.

8. GOVERNING LAW, DISPUTE RESOLUTION AND JURISDICTION

- 8.1 The Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in Bhopal shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

8.2 Amicable Settlement

- (a) Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement (**Dispute**) by giving a written notice (**Dispute Notice**) to the other Party, which shall contain:

- (i) a description of the Dispute;
- (ii) the grounds for such Dispute; and
- (iii) all written material in support of its claim.

- (b) The other Party shall, within [●] (in words) Days of issue of Dispute Notice issued under Article 8.2(a) furnish:

- (i) counter-claim and defences, if any, regarding the Dispute; and

- (ii) all written material in support of its defences and counter-claim.
- (c) Within [●] (in words) Days of issue of Dispute Notice by any Party pursuant to Article 8.2:
 - (i) if the other Party does not furnish any counter claim or defence under Article 8.2; or
 - (ii) [●] (in words) Days from the date of furnishing counter claims or defence by the other Party, both the Parties to the Dispute shall meet to settle such Dispute amicably (**Dispute Meeting**). If the Parties fail to resolve the Dispute amicably within [●] (in words) Days from the later of the dates mentioned in this Article, the Dispute shall be referred for dispute resolution in accordance with Article 8.3 of this Agreement.

8.3 Dispute Resolution through Arbitration

(a) Arbitration Procedure

If a Dispute is not resolved within [●] (in words) Days after the service of a Dispute Notice, whether or not a Dispute Meeting has been held, any Party to the Dispute shall be entitled to refer the Dispute to arbitration (**Notice of Arbitration**) to be finally resolved in accordance with the Madhya Pradesh Madhyastham AdhikaranAdhiniyam, 1983, including any amendments thereto.

Notwithstanding the existence of any Dispute, the Parties shall continue to perform their respective duties and obligations under this Agreement.

9. INDEMNITY

9.1 The SPPD shall be responsible for, and release and indemnify the GoMP-NRE on demand from and against any and all proceedings, actions, and claims for losses of whatever kind and nature for:

- (a) sickness, injury, death or personal injury;
- (b) loss of or damage to property;
- (c) infringement of intellectual property rights in any equipment or materials forming part of the Unit;
- (d) breach of any representations or warranties set out under Article 5 of this Agreement;
- (e) gross negligence or Wilful Default;

- (f) breach of statutory duty; and
- (g) actions, claims, demands, costs, charges and expenses (including legal expenses),

which may arise out of, or in consequence of, implementation of the Units and any other performance or non-performance by the SPPD of its obligations under this Agreement.

10. MISCELLANEOUS

10.1 Language

The language of this Agreement is English. In accordance with the policies of GoMP, this Agreement shall also be executed in the Hindi language. All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to the Agreement shall be in writing and shall be in English or Hindi. In the event of any conflict between the provisions of the English and Hindi versions of this Agreement, the provisions of the English version of this Agreement shall prevail.

10.2 Relationship of the Parties

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership or agency or any such other relationship between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

10.3 Notices

- (a) Any consent, approval, authorization, certificate, report, information, notice, request from or by any Party, or any other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be effective and valid only when made in writing under the hand of a duly authorized representative of such Party.
- (b) Any contractual notice, instruction, decision, order, report, certificate or other communication that is to be exchanged between the Parties shall be served by sending it by electronic mail or facsimile transmission, with a confirmation copy by courier or registered post to the following addresses:

The communications shall be sent to:

GOMP-NRE:

Attention:

Address

Tel:

Fax:

Email:

SPPD:

Attention:

Address

Tel:

Fax:

Email:

- (c) Any notice sent by electronic mail or facsimile shall be deemed to have been received on the date of transmission and any notice served by courier or registered post shall be deemed to be received when actually delivered to the address mentioned above.
- (d) Any change in the address for communication shall be duly notified by the relevant Party to the other Parties in accordance with the provisions of this Article 10.3.

10.4 Severability

If for any reason whatsoever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, illegal or unenforceable provision, as nearly as is practicable to such invalid, illegal or unenforceable provision.

10.5 Waiver

Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligation under this Agreement:

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- (b) shall not be effective unless it is in writing and executed by a duly authorized representative of the Party, with the prior written consent of the Solar Project Developer[(s)]; and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

10.6 Survival

The expiry of the Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under the Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implications, which are to survive after the expiry of this Agreement, which expressly or by their nature survive the Agreement Period or and which shall continue and survive any expiry of this Agreement.

10.7 Entire Agreement

The Parties hereto acknowledge, confirm and undertake that this Agreement constitutes the entire understanding between the Parties regarding the right to use the [●] Solar [Project or Park] Land and supersedes all previous written or oral representations and/or arrangements regarding the right to use the [●] Solar [Project or Park] Land. This Agreement may be supplemented, amended, or modified only by the mutual agreement of the parties through the authorization from the Administrative Department. Further, any modifications or amendments in this Agreement shall be in congruence with prevailing policies/rules/regulations of GoMP. No supplement, amendment, or modification of this Agreement shall be binding unless it is authorized by the Administrative Department in writing and signed by authorized representatives of both parties.

10.8 Counterparts

This Agreement may be executed in 2 (two) counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORISED REPRESENTATIVES AS OF THE DATE AND PLACE SET FORTH ABOVE.

For and on behalf of

For and on behalf of

The SPPD

Commissioner, New and Renewable
Energy

Name Designation and Address

Name Designation and Address

Signature with Seal

Signature with Seal

WitnessWitness

1. 1.

2. 2.

ANNEXURE I**Detail of Revenue Land****Table 1**

Allotted by District Collector, district _____ Order No. _____, dated DD/MM/YYYY

Sno	Khasara	Village	Tehsil	District	Total Area of Khasara(Ha)	Land Allotted to NRED (Ha)
Total						

*(Table length can be increased depending on details/data)***ANNEXURE II**

Private/Patta Land purchased under 'Mutual Consent Land Purchase Policy-2014'

Table 2

S.No	Khasara	Village	Tehsil	District	Total Area of Khasara(Ha)	Land Purchase d (Ha)	Whether (Patta or Private)	No & Date of Registry
Total								

(Table length can be increased depending on details/data)

ANNEXURE III**DREO Letter (Transfer of possession of Land from GoMP-NRE to the SPPD)****DETAILS OF POSSESSION LETTER****FORMAT OF POSSESSION LETTER**

DREO Serial No. xyz

Date: dd/mm/yyyy

To,

Commissioner,

New and Renewable Energy,

Urja Bhawan, Link Road No. 2

Shivaji Nagar,

Bhopal-462016

Subject:-Regarding possession of Revenue land (Ha) at (Site Name) for (Capacity approved) MW (Name) Project**Reference:**(i) District Collector (Name) Land allotment Order No dated dd/mm/yyyy

(ii) NRED Authorization Letter No. xyz; dated dd/mm/yyyy

(iii) NRE Letter No. xyz; dated dd/mm/yyyy

(Salutation)

With reference to NRE authorization, the possession of Revenue land (on behalf of NRED) has been taken by undersigned on date (dd/mm/yyyy) from (SDM/Tehsildar). The detail of revenue land as stated below:-

Sno	Village	Tehsil	District	Total Area (Ha)	Land Allotted to NRED (Ha)
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Possession Panchnama (No, dated dd/mm/yyyy) signed by Revenue Officer (SDM/Tehsildar) and undersigned is also attached for your kind review and perusal please.

(DREO Name)

District Renewable Energy

ANNEXURE IV**DETAILS OF UNIT[(s)] LAND**

[•]

ANNEXURE V**DETAILS OF [PGCIL or MPPTCL] LAND**

[•]

ANNEXURE VI**DETAILS OF ADDITIONAL LAND PROCURED FOR [•] SOLAR [PROJECT OR PARK]**

[•]

DM/SDM Details (Order No, Date (DD/MM/YYYY))

AND/OR

Possession of Land from Revenue Department to GoMP-NRE vide DREO (District)
Letter No. _____, dated DD/MM/YYYY

AND/OR

Possession of Private/ Patta Land by DREO (District) Letter No. _____, dated
DD/MM/YYYY

ANNEXURE VII**IMPLEMENTATION SUPPORT AGREEMENT**

[•]

ANNEXURE VIII**POWER PURCHASE AGREEMENT**

[•]

Annexure-2**LAND USE PERMISSION AGREEMENT****FOR****DEVELOPMENT OF THE [•] SOLAR POWER [PROJECT/PARK]****TO BE SET UP AT [•] DISTRICT IN THE STATE OF MADHYA PRADESH****BETWEEN****Commissioner, New and Renewable Energy, Government of Madhya Pradesh, Bhopal****AND****SPPD***(Insert the name of SPPD)***AND****M/s***[Insert name of the Solar Project Developer]***TABLE OF CONTENTS**

1.	DEFINITIONS & INTERPRETATION.....	3
2.	EFFECTIVENESS, TERM AND CHARGES.....	7
3.	CONDITIONS SUBSEQUENT.....	9
4.	OBLIGATIONS AND RESPONSIBILITIES	10
5.	REPRESENTATIONS AND WARRANTIES	14
6.	FORCE MAJEURE.....	16
7.	TERMINATION	18
8.	GOVERNING LAW, DISPUTE RESOLUTION AND JURISDICTION.....	19
9.	INDEMNITY	20
10.	MISCELLANEOUS.....	21
	ANNEXURE I	24
	ANNEXURE II.....	25
	ANNEXURE III.....	26
	ANNEXURE IV	27
	ANNEXURE V.....	28

[On Appropriate Stamp Paper]

LAND USE AND PERMISSION AGREEMENT

This **Land Use Permission Agreement (Agreement)** is entered into on this [●] day of [Month] [Year] at Bhopal, Madhya Pradesh.

BETWEEN

The **Commissioner, New and Renewable Energy, Bhopal** having its office at Urja Bhawan, Shivaji Nagar, Bhopal (hereinafter referred to as "**GoMP-NRE**", which expression shall, unless repugnant to the context thereof, include its permitted successors, assigns and legal representatives) of the **FIRST PART**;

AND

(**Name of the SPPD**), a company registered under the provisions of the Companies Act, [1956/2013], having its registered office at (hereinafter referred to as **Solar Power Park Developer or the SPPD**, which expression shall, unless repugnant to the context thereof, include its permitted successors, administrators and permitted assigns), through Mr. [●], (*Designation*), who is duly authorized by SPPD vide a board resolution issued by its board of directors on [●] (*date*), to execute this Agreement of the **SECOND PART**;

AND

M/s..... (*Name of the Solar Project Developer*), a company registered under the provisions of the [●], having its registered office at [●] (hereinafter referred to as the "**Solar Project Developer**" or "**SPD**", which expression shall, unless repugnant to the context thereof, include its permitted successors, administrators and permitted assigns), through Mr. [●], (*Designation*), who is duly authorized by the Solar Project Developer vide a board resolution issued by its board of directors on [●] (*date*), to execute this Agreement of the **THIRD PART**;

GoMP-NRE, SPPD and the Solar Project Developer are hereinafter individually referred to as **Party** and collectively as the **Parties**.

WHEREAS:

- A. With a view to provide a further boost to renewable energy development in the state of Madhya Pradesh, the Government of Madhya Pradesh (**GoMP**) and the Government of India (**GoI**) have decided to set up a [●] MW solar [Project or Park] in the [●] District of the state of Madhya Pradesh ([●] Solar [Project or Park]).
- B. GoMP-NRE is the nodal department of the GoMP, vested with the responsibility to deal with all the matters connected with implementation of solar power based projects developed under the MP Solar Policy (*as defined below*). As per the MP Solar Policy, in case of land owned by the Revenue Department, GoMP or any other GoMP department, such land may be transferred to GoMP-NRE and GoMP-NRE is further entitled to subsequently give permission for use of land to a developer of a Solar Power [Project or Park].
- C. In this regard, SPPD has been incorporated as a [●] (*insert relevant details of incorporation of the SPPD*). SPPD has been designated as the solar power park developer for the [●] Solar [Project or Park]. [[●] Solar Project is a part of [●] Solar Park]

- D. The [●] Solar [Project or Park] will be [developed/split into [●] units ([individually] referred to as **Unit** [and collectively referred to as **Units**]) of ground mounted grid-connected solar photovoltaic power plants of [●] MW capacity [each], to be developed on pre-identified land parcels inside the [●] Solar [Project or Park]. The Unit[(s)] will be connected to the [inter or intra]-state transmission system through a [● kV] substation to be constructed, operated and maintained by [Power Grid Corporation of India Limited or Madhya Pradesh Power Transmission Company Limited] ([PGCIL, or MPPTCL] **Sub-station**).
- E. The SPPD, in its capacity as the bidding authority for the [●] Solar [Project or Park], invited proposals from all interested entities pursuant to a request for proposal issued on [●]. Pursuant to the bidding process, the Solar Project Developer was declared as the successful bidder to develop [●] Unit(s) at the [●] Solar Park and subsequently, has been issued a letter of award on [●] for the development of such Unit(s). Pursuant to the letter of award, the SPPD has entered into power purchase agreement(s) with the Solar Power Developer and the Procurers, which is annexed as ANNEXURE III. Further, the SPPD and the Solar Project Developer have executed, or shall execute, an Implementation Support Agreement (ISA), annexed as ANNEXURE V, under which the SPPD is undertaking to provide the Internal Infrastructure and handover possession of the Unit Land, free from all encumbrances, to the Solar Project Developer and its personnel for the Agreement Period, to own, construct, commission, operate, maintain and repair the Unit on the Unit Land.
- F. For the purposes of setting up the [●] Solar [Project or Park] and the [PGCIL or MPPTCL] Sub-station, GoMP-NRE has the right to grant permission for use of land, including the land required for the development of the Unit[(s)]. In this context, GoMP-NRE has allotted government land and has entered into a land use permission agreement with the SPPD on [●] for the grant and use of land for the [●] Solar [Project or Park] (**First LUPA**), annexed as ANNEXURE V.
- G. Parties shall enter into this Agreement to grant the Solar Project Developer the right to undertake the use of land, the details of which are set out in ANNEXURE II to this Agreement, required for the development of the Unit[(s)] and the development of the Internal Evacuation Infrastructure by the SPPD, totaling an area of [●] hectares (**Unit Land**), in accordance with the terms and conditions set forth in this Agreement.

Now, therefore, in consideration of the premises and mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and intending to be legally bound hereby, both the Parties agree to the terms and conditions set forth as follows:

1. DEFINITIONS & INTERPRETATION

1.1. Definitions

In this Agreement, following words and expression shall, unless repugnant to the context or meaning thereof, have the meanings hereinafter respectively assigned to them:

"Administrative Department" shall mean the New and Renewable Energy Department of GoMP.

"Agreement" means this Land Use Permission Agreement together with Annexures hereto.

"Agreement Period" shall have the meaning as ascribed to it in Article 2.2 of this Agreement.

"Applicable Laws" means all laws in force and effect as on the Effective Date and which may be promulgated or brought in force and effect in India, including in the state of Madhya Pradesh after the Effective Date and all applicable statutes, enactments, laws, ordinances, bye-laws, rules, regulations, guidelines, notifications, notices, and/or judgments, decrees, injunctions, writs or orders of any Governmental Instrumentality, court, statutory or regulatory authority, tribunal, board or stock exchange in any jurisdiction as may be in force and effect during the subsistence of this Agreement as may be applicable to each of the Parties respectively.

"Applicable Permits" means any permissions, clearances, concessions, authorizations, consents, licenses, permits, rulings, exemptions, no-objections, resolutions, filings, orders, notarizations, lodgements or registrations or approvals of whatsoever nature that are required to be obtained by the Solar Project Developer, from time to time in connection with the Unit and for undertaking, performing or discharging its obligations under this Agreement in accordance with Applicable Laws.

"Appropriate Authority" shall mean the GoMP or Government agency authorized by the GoMP or SPPD authorized under the PPA for issuing the commissioning certificate for the Unit.

"Comprehensive Charges" shall have the meaning ascribed to it under the ISA.

"Day" means a 24 hour period beginning at 00:00:00 hours Indian Standard Time and ending at 23:59:59 hours Indian Standard Time.

"Effective Date" shall mean the date of signing of this Agreement.

"Financial Assistance" means all funded and non-funded financial assistance, including loans, advances and guarantees or any re-financing that the Solar Project Developer may avail of for the Unit from the Lenders.

"Financing Documents" means collectively, the documents executed or to be executed with Lenders, in respect of the Financial Assistance and includes any document providing security for the Financial Assistance.

"First LUPA" has the meaning ascribed to it in Recital F.

"Force Majeure" shall have the meaning ascribed to it in Article 6.

"Gol" means the Government of India.

"GoMP" means the government of Madhya Pradesh.

"Governmental Instrumentality" means the:

- GoMP and/ or Gol; and/or
- any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of the GoMP; and/or
- any ministry, department, board, authority, agency, commission under the direct or indirect control of Gol; or
- any political sub-division including any court or commission or tribunal or judicial or quasi-judicial body in the state Madhya Pradesh or/and includes the Madhya Pradesh Electricity Regulatory Commission;
- Supreme Court of India or commission or tribunal or judicial or quasi-judicial body of the Gol or GoMP, having jurisdiction over the Solar Project Developer, the Unit Land or any portion thereof and the performance of obligations and exercise of rights of the Parties in accordance with the terms of this Agreement.

"INR" means Indian Rupees, the lawful currency in India.

["Internal Evacuation Infrastructure" means collectively, the following infrastructure to be constructed and commissioned by the SPPD for the [●] Solar [Project or Park] [●].]

"Internal Infrastructure" means the infrastructure created or to be created, [including Internal Evacuation Infrastructure, for the [●] Solar [Project or Park], by the SPPD, to which access has been provided or will be provided to Solar Project Developer for the use of the asset for the life of the Project in accordance with ISA].

"ISA" shall have the meaning ascribed to it in Recital E.

"Land Use Charges" shall mean all required charges for the permission to use the [●] Solar [Project or Park] Land, inclusive of all Taxes, from the Effective Date of First LUPA, in accordance with the policies of the GoMP.

"Lenders" means banks, financial institutions, funds and agents or trustees of debenture holders, including their successors and assigns, who have agreed to guarantee or provide the Financial Assistance to the Solar Project Developer under the Financing Documents for implementing the Unit.

"Loss" means all damages, losses, liabilities, costs, expenses, including legal and other professional charges and expenses and charges arising under statute, contract or otherwise in connection with judgements, proceedings, claims, internal costs or demands.

"Material Adverse Effect" means the effect of any act or event which causes a material and adverse impairment in the ability of any of the Parties to exercise their rights or perform any of its obligations or consummate transactions under and in accordance with the provisions of this Agreement.

"MP Solar Policy" means the Policy for Implementation of Solar Power Based Projects in Madhya Pradesh, 2012, including any amendments thereto, issued by the GoMP.

"Month(s)" shall mean a calendar month as per the Gregorian calendar.

"Permanent Structures" shall mean the permanent works forming part of the Unit that are required to be constructed, installed and maintained as such for the implementation of the Unit.

"Permanent Ancillary Structures" shall mean the permanent ancillary works required for the Unit related activities like construction of Unit office, staff houses, rest house, guest house, canteen, etc.

["PGCIL or MPPTCL"] Sub-station has the meaning ascribed to it in Recital D.

"PPA" means the power purchase agreement entered into between the Solar Project Developer[, the SPPD] and the Procurer on [●], annexed as Annexure [●]

["Procurer[s]"] shall mean the entity who is procuring power from the Solar Project Developer at a competitively determined or mutually agreed tariff.]

"Prudent Utility Practices" means the exercise of that degree of skill, diligence and prudence and those practices, methods, specifications and standards of equipment, safety and performance, as may change from time to time and which are reasonably and ordinarily expected to be used by a skilled and experienced owner, contractor or operator engaged in installation, management, ownership, operation and maintenance of facilities, equipment or systems of the type and size similar to the Unit.

["●] Solar [Project or Park]" has the meaning ascribed to it in Recital A.

"Selectee" means the new entity/project company proposed by the Lenders, in accordance with the terms of the PPA, for the remaining term of PPA.

"Taxes" means any Indian taxes including levies, imposts, cess, duties and other forms of taxation, including income tax, sales tax, value added tax, octroy, entry tax, corporation profits tax, advance corporation tax, capital gains tax, residential and property tax, customs and other import and export duties, excise duties, stamp duty or capital duty (whether central, state or local) on the goods, materials, equipment and services incorporated in and forming part of the Unit charged, levied or imposed by any Governmental Instrumentality, but excludes any interest, penalties and other sums in relation thereto imposed on any account whatsoever.

"Temporary Structures" shall mean all temporary works of any kind other than permanent

structures required to be erected in connection with the implementation of the Unit and that are incidental or ancillary to the design, engineering and construction of the Unit and are erected/installed and maintained till the Unit COD and removed thereafter.

“Unit[(s)]” shall have the meaning ascribed to it in Recital D.

[“Unit COD” shall mean the date on which the commissioning certificate has been issued, or deemed to have been issued, by the Appropriate Authority for the full [●] MW capacity of the Unit in accordance with the PPA.]

“Unit Land” shall have the meaning ascribed to it in Recital G.

[“Unit SCOD” shall mean the scheduled commercial operations date of the Unit, as notified by the SPPD to GoMP-NRE under Article 2.2 of this Agreement.]

“Wilful Default” shall mean a deliberate or conscious breach of this Agreement by any of the Parties which has a Material Adverse Effect on the other Party.

“Year(s)” shall mean 365 Days or 366 Days in case of leap year when February is of 29 Days.

Interpretation

In this Agreement, unless the context otherwise requires:

- (a) Any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder.
- (b) The references to persons and words denoting natural persons shall include bodies corporate and partnerships, joint ventures and statutory and other authorities and entities.
- (c) The nomenclature of the Agreement, headings and paragraph numbers are for the convenience of reference and shall be ignored in construing or interpreting the Agreement.
- (d) Any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference provided that this Article shall not operate so as to increase the liability or obligations of any Party hereunder or pursuant hereto in any manner whatsoever.
- (e) Any reference to any period commencing "from" a specified Day or date and "till" or "until" a specified Day or date shall include both such Days and dates.

2. EFFECTIVENESS, TERM AND CHARGES

2.1. Effectiveness

The Agreement shall come into effect from the Effective Date of this Agreement.

2.2. Agreement Period

This Agreement shall remain in force from the Effective Date, for a period of 25 Year(s) from the Unit [SCOD/or COD]¹. The SPPD shall submit a certificate, issued by the Appropriate Authority, to GoMP-NRE, with a copy to the Solar Project Developer, notifying it of the Unit [SCOD/COD]. [If the Unit SCOD is extended in accordance with the provisions of the PPA, the SPPD shall submit a fresh certificate to GoMP NRE, with a copy to the Solar Project Developer, notifying it of the amended Unit SCOD.]²

2.3. Early Termination

This Agreement shall terminate before the Agreement Period if terminated pursuant to Article 6.6 or Article 7 of this Agreement.

2.4. Procedure upon termination or expiry of this Agreement

- (a) In case of termination or expiry of the Agreement Period, the Solar Project Developer shall, at its own risk and cost, immediately dismantle, or cause the dismantling of the Unit and remove the Permanent Structures, Permanent Ancillary Structures and Temporary Structures, including all plant, equipment, personnel, machinery and other structures, so that the Unit Land given for use is vacant within [●] (in words) Days from the date of termination of this Agreement or expiry of the Agreement Period. After such [●] (in words) Days' period, the GoMP-NRE shall have the full right on all the property left over on the Unit Land without payment of any compensation to the Solar Project Developer and will be free to dispose it off in any manner it chooses. It is clarified for the avoidance of doubt that this Article shall survive the termination of this Agreement.
- (b) In case of expiry of the Agreement Period or early termination of this Agreement, the procedure set out in Article 2.4(c) to 2.4(e) below shall be followed for that portion of the Unit Land which has been given for use for the Internal Evacuation Infrastructure.
- (c) At least [●] (in words) Days prior to expiry of the Agreement Period or early termination of this Agreement, the SPPD may request GoMP-NRE for a renewal or fresh allotment of the land use permission for the Unit Land or the Internal Evacuation Infrastructure, or any part thereof, for such further period and on such terms as may be mutually agreeable to GoMP-NRE and the SPPD and in accordance with the policies of the GoMP. The SPPD hereby agrees that any such extension shall be at the sole discretion of GoMP-NRE. The GoMP-NRE shall communicate, in writing, its decision on the SPPD's request at least [●] (in words) Days prior to the expiry of this Agreement.
- (d) Subject to the SPPD and GoMP-NRE agreeing an extension, or fresh allotment, of the land use permission pursuant to Article 2.4(c) above, upon the expiry of Agreement Period or early termination of this Agreement in accordance with the terms hereof, GoMP-NRE will

¹ In accordance with the PPA

² This sentence shall be applicable in case the agreement period is linked to the Unit SCOD, as per the PPA.

have the right to transfer the Internal Evacuation Infrastructure to the [PGCIL or MPPTCL] (or its successor and permitted assigns), upon the payment of compensation to the SPPD [, if applicable], which shall be for an amount equal to the depreciated value of the Internal Evacuation Infrastructure. The GoMP-NRE shall communicate, in writing, its decision to the SPPD at least [●] (in words) Days prior to the expiry of this Agreement.

- (e) In the event that GoMP-NRE, upon the expiry or termination of this Agreement, decides against the renewal or fresh allotment of the land use permission pursuant to Article 2.4(c) above and further decides against transferring the Internal Evacuation Infrastructure pursuant to Article 2.4(c) above, the SPPD shall dismantle and remove the Internal Evacuation Infrastructure at its cost and risk and handover vacant and peaceful possession of that portion of the Unit Land used for Internal Evacuation Infrastructure to GoMP-NRE within [●] (in words) Days of the date of expiry or termination as the case may be. In the event that the SPPD fails to remove the Internal Evacuation Infrastructure and handover possession of the land in the manner prescribed hereinabove, GoMP-NRE will have the right to remove and dispose of the Internal Evacuation Infrastructure in the manner it deems fit, at the cost and risk of the SPPD, and shall take over possession of that portion of the Unit Land used for the Internal Evacuation Infrastructure. Any monies that GoMP-NRE recovers from disposal of the Internal Evacuation Infrastructure will be returned to the SPPD after adjusting all expenses incurred by GoMP-NRE in removal or disposal of these assets and takeover of vacant possession of the Unit Land.

2.5. Consideration for Land Use Permission

The consideration for the land use permission shall be paid by the SPPD to "Departmental Receipt Head" of GoMP-NRE in accordance with the terms of the First LUPA. The Solar Project Developer shall be liable to pay the Comprehensive Charges to SPPD in accordance with article 5.1 of the ISA. For the avoidance of doubt, it is clarified that the Comprehensive Charges payable in terms of the ISA include charges for provision of, and use by the Solar Project Developer of, the Unit Land provided by the SPPD to the Solar Power Developer.

3. CONDITIONS SUBSEQUENT

3.1. Satisfaction of conditions subsequent by SPPD:

Within [●] (in words) Days from the Effective Date, the SPPD shall handover [●] hectares of land located at villages [●] to the Solar Project Developer for its use for the Unit. It is clarified that the land shall remain in the ownership of GoMP-NRE and the Solar Project Developer is authorized only to use it for the purpose of developing, commissioning, operating and maintaining the Unit for the Agreement Period.

3.2. Satisfaction of conditions subsequent by the Solar Project Developer:

The Solar Project Developer shall ensure that it constructs and commissions the Unit in accordance with the timelines specified in the PPA. Within [●] (in words) Days of the Solar Project Developer achieving Unit [COD], the SPPD or Appropriate Authority shall issue a notice to GoMP-NRE informing them that the Solar Project Developer has achieved Unit [COD].

3.3. Consequences of non-fulfillment of Conditions Subsequent

If the Solar Project Developer fails to achieve the Unit [SCOD or COD], as the case may be, by the extended date as per the provisions of PPA signed between Solar Project Developer and Procurer, for a reason not attributable to the SPPD, GoMP-NRE or a Force Majeure Event, the SPPD shall have a right to terminate this Agreement and the Solar Project Developer shall be liable for the termination consequences in terms of the ISA.

4. OBLIGATIONS AND RESPONSIBILITIES

4.1 Obligations of the Solar Project Developer

- (a) The Solar Project Developer undertakes to be responsible at its own cost and risk, for the execution of the Unit.
- (b) The Solar Project Developer shall work with and co-operate in good faith with the GoMP-NRE with respect to all of the obligations and rights hereunder.
- (c) The Solar Project Developer shall construct, operate and maintain the Unit, and pay all Taxes as may be applicable under this Agreement and Applicable Law, including the policies of the GoMP, for owning, operating and maintaining the Unit.
- (d) The Solar Project Developer shall not use the Unit Land for any purpose other than for the development of the Unit and those included in the definitions of Permanent Structures, Permanent Ancillary Structures and Temporary Structures.
- (e) If at any stage during the tenure of this Agreement it is found that the Unit Land is being used for any purpose other than as expressly allowed under this Agreement, then the land use permission may be cancelled under the provisions of this Agreement.
- (f) The Solar Project Developer shall not use more than 5% of the Unit Land for the Permanent Ancillary Structures.
- (g) The Solar Project Developer shall construct and operate the Unit in accordance with Prudent Utility Practices throughout the Agreement Period.
- (h) The Solar Project Developer shall, for the purpose of safety, fence the Unit Land.
- (i) The Solar Project Developer shall be liable for environment protection measures within the Unit Land in accordance with Applicable Laws and Applicable Permits, and shall not do anything adversely affecting the environment.
- (j) In the event the Solar Project Developer requires to dig any well or tube well, or otherwise take water from any water source in the Unit Land, it shall do so only in accordance with Applicable Laws and Applicable Permits, and shall not do anything adversely affecting the environment.
- (k) While using the Unit Land, if the Solar Project Developer causes any harm or injury to any person/ animal, he shall be liable to pay compensation or damages in the same manner as a tenant of land is generally liable to pay.
- (l) In the event that the Solar Project Developer requires to cut any trees on the Unit Land, it shall do so only in accordance with Applicable Laws and Applicable Permits, and shall not do anything adversely affecting the environment.
- (m) Monitoring and supervision of the Unit:
The Solar Project Developer shall, at all times, grant access to the Unit Land to the authorized representatives of the GoMP-NRE and the SPPD and to the persons duly authorized by any Governmental Instrumentality having jurisdiction over the Unit.

- (n) **Safety measures:**
The Solar Project Developer shall ensure proper safety measures during the implementation of the Unit, including any geological study, construction and testing on the Unit Land, and shall meet minimum safety standards prescribed under Applicable Laws for the safety of all personnel engaged in the design, construction, operation, maintenance and repair of the Unit. The GoMP-NRE shall have the right to institute an appropriate mechanism to ensure compliance by the Solar Project Developer in this regard.
- (o) **Alternative facilities:**
In case any existing facilities including, but not limited to, roads, bridges, buildings and communication system(s), are affected because of the implementation of the Unit on the Unit Land, the Solar Project Developer shall be responsible and bear the cost of taking remedial measures. The Solar Project Developer shall not interfere with any of the existing facilities till an alternate facility is created as approved by the concerned Governmental Instrumentality unless an approval is provided otherwise, in writing by the concerned Governmental Instrumentality.
- (p) **Maintaining Ecological Balance:**
The Solar Project Developer shall be responsible for maintaining the ecological balance by preventing deforestation, water pollution and defacement of natural landscape in the vicinity of the Unit Land. The Solar Project Developer shall take all reasonable measures to prevent any, unnecessary destruction, scarring or defacement of the natural surroundings in the vicinity of the Unit Land.
- (q) **Use of facilities:**
Subject to availability, security, safety, Applicable Law and operational factors being met, the Solar Project Developer shall permit the use, free of cost, by the GoMP and the general public, of all service roads constructed and maintained by it for the Unit after the Unit COD.
- (r) **Archaeological findings, treasures etc.:**
All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on or in the Unit Land shall be deemed to be the absolute property of the GoMP. The Solar Project Developer shall take reasonable precautions to prevent its workmen or any other persons from damaging any such article or thing. The Solar Project Developer shall arrange to hand over the same to the GoMP-NRE free of cost, provided that, in case any precious or semi-precious material is located, the Solar Project Developer shall inform the GoMP-NRE immediately and abide by the directives of the GoMP which shall be communicated within a period of [●] (in words) Days from the date of receipt of such intimation from the Solar Project Developer.
- (s) The Solar Project Developer, while providing employment for construction as well as operation and maintenance activities, shall endeavor to give preference to locals as per their availability and suitability.

4.2 **Obligations and responsibilities of the GoMP-NRE**

- (a) **Land Use Permission:**
The GoMP-NRE and SPPD hereby grants, and the Solar Project Developer hereby accepts the right to use the Unit Land (details of which are set out in ANNEXURE I to this Agreement) and any additional land that may be procured (the requisite details of which will be attached as an ANNEXURE II to this Agreement), for the sole and exclusive purpose of

developing the Unit. The SPPD shall make the Unit Land available to the Solar Project Developer in accordance with Article 3.1 of this Agreement.

- (b) **Right to step-in or substitution:**
The GoMP-NRE and SPPD shall permit the Lenders, who in the case of a consortium of Lenders will be represented by the lead Lender, the right to step-in or substitute the Solar Project Developer under this Agreement, if required under the Financing Documents by executing a substitution agreement substantially in the form executed in accordance with the provisions of the PPA. Solar Project Developer [or the SPPD] shall provide GoMP-NRE with the substitution agreement executed under the PPA. GoMP-NRE and SPPD shall, upon the Selectee being appointed by the Lenders under the PPA, substitute the Solar Project Developer with the Selectee under this Agreement for the remaining Term on the same terms and conditions as this Agreement.
- (c) **Assignment:**
The Unit Land given for use under this Agreement for development of the Unit shall not be assigned or transferred by the Solar Project Developer to any other party for any purpose including for the purpose of financing the Unit. To the extent required under the Financing Documents, GOMP-NRE and SPPD permits the Solar Project Developer to assign its rights under this Agreement to a Lender, provided that nothing contained in this Article shall absolve the Solar Project Developer from its responsibility to perform or discharge any of its obligations under and in accordance with the provisions of this Agreement.
- Further, if there is any provision in PPA related to assignment or transfer of the Unit by Solar Project Developer to a third party, and bidding authority provides in-principle approval on said assignment or transfer, Parties hereby agree to do all acts required to novate the Unit LUPA in favour of third party.
- (d) **Upgradation of roads and bridges:**
The GoMP-NRE shall permit the Solar Project Developer to construct roads, bridges, culverts, and other infrastructure as considered necessary for the Unit on the Unit Land in consultation with the relevant Governmental Instrumentality at the cost and risk of the Solar Project Developer.

4.3 **Obligations and Responsibilities of the SPPD**

- (a) The SPPD undertakes to handover to the SPD [●] hectares (in words) land to the Solar Project Developer for its use for the Unit. It is clarified that any land required for the construction of the Unit, over and above the Unit Land (totaling an area of [●] hectares), Solar Project Developer may request SPPD, in writing, to procure such quantum of land at the SPD's cost and risk.
- (b) The SPPD undertakes to pay all required Land Use Charges, inclusive of all Taxes, from the Effective Date of this Agreement, in accordance with the policies of the GoMP.
- (c) The SPPD shall ensure that the Unit Land is free from all encumbrances and unhindered possession is handed over to the Solar Project Developer in accordance with the terms of this Agreement.
- (d) In the event that the SPPD procures any additional land for the development of the Unit, over and above the land mentioned in Article 3.1, as detailed in ANNEXURE II, it shall handover

possession of such additional land to the Solar Project Developer within [●] (in words) Days of procuring such additional land. The Parties hereby agree that as and when the SPPD procures any additional land, the details of such additional land shall be included in this Agreement in the form of an annexure and such land shall form a part of the Unit Land. The Solar Power Developer shall reimburse the entire amount paid by the SPPD for procuring such additional land, including any stamp duty charges or registration charges, at actuals. It is clarified for the avoidance of doubt that any such additional land that is handed over to the Solar Project Developer, shall, from the date of such handover, form part of the Unit Land and all covenants, rights and obligations of the Parties contained in this Agreement with respect to the Unit Land shall apply to any such additional land handed over to the Solar Project Developer and that no further consent or agreement is required by the Parties prior to the handover of such additional land.

5. REPRESENTATIONS AND WARRANTIES

5.1. Representations and Warranties of the Solar Project Developer

The Solar Project Developer represents and warrants to the GoMP-NRE and the SPPD that as of the Effective Date:

- (a) it is duly organized and validly existing under the laws of India, and has all requisite power and has been duly authorized to execute and consummate this Agreement;
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) this Agreement constitutes its legal, valid and binding obligation, enforceable against the Solar Project Developer in accordance with its terms; and
- (d) The consummation of the transactions contemplated by this Agreement on the part of the Solar Project Developer will not violate any provision of, nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the Solar Project Developer is a party or to which the Solar Project Developer is bound, which violation, default or power has not been waived.

5.2 Representations and Warranties of the GoMP-NRE

The GoMP-NRE represents and warrants to the Solar Project Developer and the SPPD that as of the Effective Date:

- (a) the GoMP-NRE has all requisite powers and has been duly authorized to execute and consummate this Agreement;
- (b) the execution and delivery of this Agreement by the GoMP-NRE does not violate the provision of any existing Applicable Law, or of agency or of any contract, undertaking or agreement, to which the GoMP-NRE is a party or which is binding on GoMP-NRE; and
- (c) the Unit Land has been procured by GoMP-NRE in accordance with Applicable Laws and policies of the GoMP.

5.3 Representations and Warranties of the SPPD

The SPPD represents and warrants to the GoMP-NRE and the Solar Project Developer that as of the Effective Date:

- (a) it is duly organized and validly existing under the laws of India, and has all requisite power and has been duly authorized to execute and consummate this Agreement;
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) this Agreement constitutes its legal, valid and binding obligation, enforceable against the SPPD in accordance with its terms; and
- (d) the consummation of the transactions contemplated by this Agreement on the part of the SPPD will not violate any provision of, nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the SPPD is a party or to which the SPPD is bound, which violation, default or power has not been waived.

6. FORCE MAJEURE

- 6.1 Subject to Article 6.5, Force Majeure shall mean any event or circumstances or combination of events or circumstances that wholly or partly prevents or unavoidably delays any Party in the performance of its obligations under the Agreement, but only if and to the extent that such events and circumstances are not within the reasonable control, directly or indirectly, of the affected Party and could not have been avoided even if the affected Party had taken reasonable care or complied with Prudent Utility Practices and are on account of:
- (a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the Unit), earthquake, volcanic eruption, landslide, flood, cloud burst, cyclone, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last 100 (hundred) Year(s);
 - (b) Compulsory acquisition by any Governmental Instrumentality under the GoMP or the GoI of any material assets or rights of the SPPD;
 - (c) The unlawful, unreasonable or discriminatory revocation of, or refusal to renew, any Applicable Permits required by the Solar Project Developer to perform its obligations under this Agreement or any unlawful, unreasonable or discriminatory refusal to grant any Applicable Permits required for the operation of the Unit on the Unit Land, provided that a competent court of law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes the same down;
 - (d) Any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo;
 - (e) revolution, riot, insurrection, terrorist or military action.
- 6.2 In the event a Party is rendered unable to perform any obligations required to be performed by it under the Agreement by Force Majeure, the particular obligations shall, upon notification to the other Party, be suspended for the period of Force Majeure.
- 6.3 Upon the occurrence of an event of Force Majeure, the Party claiming that it has been rendered unable to perform any of its material obligations under the Agreement, shall notify the other Party in writing within [●] (in words) Days of the commencement thereof giving the particulars and satisfactory evidence in support of its claim. Upon termination of such event of Force Majeure, the affected Party shall, within [●] (in words) Days of its termination, intimate the other Party of such termination.
- 6.4 Time for performance of the relative obligations suspended by Force Majeure shall then stand extended by the period of delay, which is directly attributable to Force Majeure. The Party giving such notice shall be excused from timely performance of its obligations under the Agreement, for so long as the relevant event of Force Majeure continues and to the extent that such Party's performance is prevented, hindered or delayed, provided the Party or Parties affected by the event, of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its performance of the obligations under the Agreement.
- 6.5 Force Majeure shall expressly not include the following, except to the extent resulting from a Force Majeure:

- (a) Unavailability, late delivery or changes in cost of plant, machinery, equipment, materials, spare parts, or consumables for the Units;
- (b) A delay in the performance by any contractor(s);
- (c) Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
- (d) Strikes or labour disturbance at the facilities of the affected Party;
- (e) Insufficiency of finances or funds or the Agreement becoming onerous to perform;
- (f) Non-performance caused by, or connected with, non-performing Party's:
 - (i) Negligent or intentional acts, errors or omissions,
 - (ii) Failure to comply with any Applicable Law, and
 - (iii) Breach of or default under the Agreement.

6.6 Termination Due to Force Majeure

- (a) If, prior to the completion of [●] (in words) Days commencing from the date of issuance of a notice of Force Majeure, the Parties are of the reasonable view that:
 - (i) the Force Majeure is likely to continue beyond such [●] (in words) Day period or any extended period agreed by the Parties; or
 - (ii) that it is uneconomic or impractical to restore the affected Unit Land or Unit,
 then the Parties may mutually decide to terminate this Agreement, which termination shall take effect from the date on which such decision is taken.
- (b) Without prejudice to the provisions of Article 6.6(a) above, the affected party shall, after the expiry of the period of [●] (in words) Days or any other mutually extended period, be entitled to forthwith terminate this Agreement in its sole discretion by issuing a notice to that effect. On termination of this Agreement pursuant to this Article 6.6(b), the consequences of termination that are set out at Article 2.4 shall apply.

7. TERMINATION

- 7.1 The Parties agree and acknowledge that this Agreement shall not be terminated by any Party for convenience.
- 7.2 In the event that the Solar Project Developer fails to fulfil its obligations set out in Article 3.2 and/or 4.1, the SPPD may issue a preliminary notice to the Solar Project Developer providing [●] (in words) Days from the date on which the preliminary notice is delivered to the Solar Project Developer to cure the underlying breach. If the Solar Project Developer fails to cure the breach within such period allowed, the SPPD shall be entitled to terminate this Agreement by issuing a notice of termination to the Solar Project Developer which shall set out:
 - (i) details regarding the underlying breach;
 - (ii) the date of termination; and
 - (iii) any other relevant information.

- 7.3 In the event that the PPA is terminated due to a Solar Project Developer default and neither Procurer nor the SPPD exercise their right to transfer the Unit, upon such a notice being issued by the SPPD to GoMP-NRE, this Agreement shall stand terminated and the consequences of termination set out under the ISA shall follow.
- 7.4 In the event that the PPA is terminated due to a Procurer's default and the Solar Project Developer chooses to transfer the Unit to Procurer, upon such a notice being issued by the SPPD to GoMP-NRE, the Parties hereby agree to do all acts required to novate this Agreement in favour of Procurer or its nominee.
- 7.5 In the event that the PPA is terminated due to a Solar Project Developer default and either Procurer or the SPPD choose to seek a transfer the Unit, the Parties hereby agree to do all acts required to novate this Agreement in favour of either Procurer or the SPPD, or any of their nominees.
- 7.6 In the event that the ISA is terminated due to the SPPD's default, the Solar Project Developer shall notify GoMP-NRE of the termination of the ISA, pursuant to which this Agreement shall stand automatically terminated.
- 7.7 In the event that the ISA is terminated due to Solar Project Developer's default, the SPPD shall notify GoMP-NRE of the termination of the ISA, pursuant to which this Agreement shall stand automatically terminated and the consequences of termination set out under the ISA shall follow.
- 7.8 It is clarified for the avoidance of doubt that if the PPA is terminated for a Procurer default and the Solar Project Developer decides against transferring the Unit to Procurer, GoMP-NRE and the SPPD shall not have any right to terminate this Agreement.

8. GOVERNING LAW, DISPUTE RESOLUTION AND JURISDICTION

- 8.1 The Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in Bhopal shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.
- 8.2 SPPD and the Solar Project Developer hereby agree that any disputes between SPPD and the Solar Project Developer arising under, out of or in connection with this Agreement shall be adjudicated in accordance with the dispute resolution procedure as set out under the ISA, to which both SPPD and the Solar Project Developer are parties.
- 8.3 Subject to Article 8.2, for any other disputes under this Agreement, the courts in Bhopal shall have exclusive jurisdiction over such dispute and/or any other matters arising out of or relating to this Agreement.

9. INDEMNITY

- 9.1 The Solar Project Developer shall be responsible for, and release and indemnify the GoMP-NRE and the SPPD on demand from and against any and all proceedings, actions, and claims for Losses of whatever kind and nature for:

- (a) sickness, injury, death or personal injury;
- (b) loss of or damage to property;
- (c) infringement of intellectual property rights in any equipment or materials forming part of the Unit;
- (d) breach of any representations or warranties set out under Article 5.1 of this Agreement;
- (e) gross negligence or Wilful Default;
- (f) breach of statutory duty; and
- (g) actions, claims, demands, costs, charges and expenses (including legal expenses),

which may arise out of, or in consequence of, implementation of the Unit and any other performance or non-performance by the Solar Project Developer of its obligations under this Agreement.

10. MISCELLANEOUS**10.1 Language**

The language of this Agreement is English and Hindi. All notices required to be given by one Party to the other Parties and all other communications, documentation and proceedings which are in any way relevant to the Agreement shall be in writing and shall be in English or Hindi. In the event of any conflict between the provisions of the English and Hindi versions of this Agreement, the provisions of the English version of this Agreement shall prevail.

10.2 Relationship of the Parties

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership or agency or any such other relationship between the Parties or to impose any partnership obligation or liability upon either Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Parties.

10.3 Notices

- (a) Any consent, approval, authorization, certificate, report, information, notice, request from or by any Party, or any other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be effective and valid only when made in writing under the hand of a duly authorized representative of such Party.
- (b) Any contractual notice, instruction, decision, order, report, certificate or other communication that is to be exchanged between the Parties shall be served by sending it by electronic mail or facsimile transmission, with a confirmation copy by courier or registered post to the following addresses:

The communications shall be sent to:

GOMP-NRE:	Attention: Address Tel: Fax: Email:
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SPPD:	Attention: Address Tel: Fax: Email:
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Solar Project Developer:	Attention: Address Tel: Fax: Email:
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- (c) Any notice sent by electronic mail or facsimile shall be deemed to have been received on the

date of transmission and any notice served by courier or registered post shall be deemed to be received when actually delivered to the address mentioned above.

- (d) Any change in the address for communication shall be duly notified by the relevant Party to the other Parties in accordance with the provisions of this Article 10.3.

10.4 Severability

If for any reason whatsoever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, illegal or unenforceable provision, as nearly as is practicable to such invalid, illegal or unenforceable provision.

10.5 Waiver

Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligation under this Agreement:

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- (b) shall not be effective unless it is in writing and executed by a duly authorized representative of the Party, and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

10.6 Survival

The expiry of the Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under the Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implications, which are to survive after the expiry of this Agreement, which expressly or by their nature survive the Agreement Period or and which shall continue and survive any expiry of this Agreement.

10.7 Entire Agreement

The Parties hereto acknowledge, confirm and undertake that this Agreement constitutes the entire understanding between the Parties regarding the right to use the Unit Land and supersedes all previous written or oral representations and/or arrangements regarding the right to use the Unit Land. This Agreement may be supplemented, amended, or modified only by the mutual agreement of the parties through the authorization from the Administrative Department. Further, any modifications or amendments in this Agreement shall be in congruence with prevailing policies/rules/regulations of GoMP. No supplement, amendment, or modification of this Agreement shall be binding unless it is authorized by the Administrative Department in writing and signed by authorized representatives of all parties.

10.8 Counterparts

This Agreement may be executed in 3 (three) counterparts, each of which, when executed and

delivered, shall constitute an original of this Agreement.

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORISED REPRESENTATIVES AS OF THE DATE AND PLACE SET FORTH ABOVE.

For and on behalf of For and on behalf of

Solar Project Developer Commissioner, New & Renewable Energy

Name Designation and Address Name Designation and Address

Signature with Seal Signature with Seal

Witness Witness

1. 1.
2. 2.

For and on behalf of

SPPD Name Designation and Address

Signature with Seal

Witness

- 1.
- 2.

ANNEXURE I

DETAILS OF UNIT LAND

Details of land given for the Unit:

[•]

ANNEXURE II

DETAILS OF ADDITIONAL UNIT LAND

[•]

ANNEXURE III

POWER PURCHASE AGREEMENT

Annexure-3**LAND USE PERMISSION AGREEMENT****FOR****DEVELOPMENT OF [PGCIL OR MPPTCL] SUBSTATION FOR THE [•] SOLAR
[PROJECT OR PARK]****TO BE SET UP AT [•] DISTRICT IN THE STATE OF MADHYA PRADESH****BETWEEN****Commissioner, New and Renewable Energy, Government of Madhya Pradesh****AND***(Insert name of Solar Power Park Developer)***AND****M/s [Power Grid Corporation of India Limited/ Madhya Pradesh Power Transmission
Company Limited]****Table of Contents**

1.	DEFINITIONS & INTERPRETATION	3
2.	EFFECTIVENESS, TERM AND CHARGES	7
3.	CONDITIONS SUBSEQUENT	9
4.	OBLIGATIONS AND RESPONSIBILITIES	10
5.	REPRESENTATIONS AND WARRANTIES	13
6.	FORCE MAJEURE	15
7.	TERMINATION	17
8.	GOVERNING LAW, DISPUTE RESOLUTION AND JURISDICTION	18
9.	INDEMNITY	19
10.	MISCELLANEOUS	20
	ANNEXURE I	25

This **Land Use Permission Agreement (Agreement)** is entered into on this [●] day of [Month] [Year] at Bhopal, Madhya Pradesh.

BETWEEN

The Commissioner, New and Renewable Energy, Government of Madhya Pradesh, Bhopal having its office at Urja Bhawan, Shivaji Nagar, Bhopal (hereinafter referred to as "**GoMP-NRE**", which expression shall, unless repugnant *against* to the context thereof, include its permitted successors, assigns and legal representatives) of the **FIRST PART**;

AND

(*Insert name of Solar Power Park Developer*), a company registered under the provisions of the Companies Act, 2013, having its registered office at (Address) (hereinafter referred to as the "**Solar Power Park Developer or SPPD**", which expression shall, unless repugnant to the context thereof, include its permitted successors, administrators and permitted assigns), through Mr. [●], (*Designation*), who is duly authorized by SPPD vide a board resolution issued by its board of directors on [●] (*date*), to execute this Agreement of the **SECOND PART**;

AND

M/s [**Power Grid Corporation of India Limited / Madhya Pradesh Power Transmission Company Limited**], a company registered under the provisions of the Companies Act, 2013, having its registered office at [●] (hereinafter referred to as [**PGCIL or MPPTCL**"], which expression shall, unless repugnant to the context thereof, include its permitted successors, administrators and permitted assigns), through Mr. [●], (*Designation*), who is duly authorized by the [PGCIL or MPPTCL] vide a board resolution issued by its board of directors on [●] (*date*), to execute this Agreement of the **THIRD PART**;

GoMP-NRE, SPPD and [PGCIL or MPPTCL] are hereinafter individually referred to as **Party** and collectively as the **Parties**

WHEREAS:

- A. With a view to provide a further boost to renewable energy development in the state of Madhya Pradesh, the Government of Madhya Pradesh (GoMP) and the Government of India (GoI) have decided to set up a [●] MW Solar [Project or Park] in the [●] District of the state of Madhya Pradesh (“[●] Solar [Project or Park]”).
- B. In this regard, SPPD has been incorporated as a (*insert relevant details of incorporation of the SPPD*). SPPD has been designated as the solar power park developer for the [●] Solar [Project or Park].
- C. GoMP-NRE is the Nodal Department of the GoMP, vested with the responsibility to deal with all the matters connected with implementation of solar power based projects developed under the MP Solar Policy (*as defined below*). As per the policies of the GoMP, in case of land owned by the Revenue Department, GoMP or any other GoMP department, such land may be transferred to GoMP-NRE, and GoMP-NRE is further entitled to subsequently give permission for use of land for the development of solar power projects.
- D. [PGCIL or MPPTCL] has been awarded the work for the development of the evacuation infrastructure to evacuate power from the [●] Solar [Project or Park].
- E. The [●] Solar [Project or Park] will be [developed or split] into [●] units ([individually] referred to as **Unit** [and collectively referred to as **Units**]) of ground mounted grid-connected solar photovoltaic power plants of [●] MW capacity [each], to be developed on pre-identified land parcels inside the [●] Solar [Project or Park]. The Units will be connected to the inter-state transmission system/ State Transmission Utility through a [●] kV substation to be [constructed,] operated and maintained by [PGCIL or MPPTCL] ([PGCIL or MPPTCL] **Sub-station**).
- F. For the purposes of setting up the [●] Solar [Project or Park], including inter alia the [PGCIL or MPPTCL] Sub-station, GoMP-NRE has the right to grant permission for use of land, including the land required for the development of the [PGCIL or MPPTCL] Sub-station, and has entered into a land use permission agreement with SPPD on [●] for the grant and use of land for the [●] Solar [Project or Park], including inter alia the [PGCIL or MPPTCL] Sub-station (**First LUPA**).
- G. In accordance with the terms of the First LUPA, the Parties now wish to enter into this Agreement to grant [PGCIL or MPPTCL] the right to undertake the use of land, the details of which are set out in Annexure I to this Agreement, required for the development of the [PGCIL or MPPTCL] Sub-station ([PGCIL or MPPTCL] **Land**), in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and intending to be legally bound hereby, both the Parties agree to the terms and conditions set forth as follows:

1. DEFINITIONS & INTERPRETATION

1.1. Definitions

In this Agreement, following words and expression shall, unless repugnant to the context or meaning thereof, have the meanings hereinafter respectively assigned to them:

“Administrative Department” shall mean the New and Renewable Energy Department of GoMP;

“Agreement” means this Land Use Permission Agreement together with Annexures hereto.

“Agreement Period” shall have the meaning as ascribed to it in Article 2.2 of this Agreement;

“Applicable Laws” means all laws in force and effect as on the Effective Date and which may be promulgated or brought in force and effect in India, including in the state of Madhya Pradesh after the Effective Date and all applicable statutes, enactments, laws, ordinances, bye-laws, rules, regulations, guidelines, notifications, notices, and/or judgments, decrees, injunctions, writs or orders of any Governmental Instrumentality, court, statutory or regulatory authority, tribunal, board or stock exchange in any jurisdiction as may be in force and effect during the subsistence of this Agreement as may be applicable to each of the Parties respectively.

“Applicable Permits” means any permissions, clearances, concessions, authorisations, consents, licenses, permits, rulings, exemptions, no-objections, resolutions, filings, orders, notarisations, lodgements or registrations or approvals of whatsoever nature that are required to be obtained by [PGCIL or MPPTCL], from time to time in connection with the [PGCIL or MPPTCL] Sub-station and for undertaking, performing or discharging its obligations under this Agreement in accordance with Applicable Laws.

“Day(s)” means a 24 hour period beginning at 00:00:00 hours Indian Standard Time and ending at 23:59:59 hours Indian Standard Time.

“Effective Date” shall mean the date of signing of this Agreement.

“First LUPA” has the meaning ascribed to it in Recital F.

“Force Majeure” shall have the meaning ascribed to it in Article 6.

“GoI” means the Government of India.

“GoMP” means the government of Madhya Pradesh.

“GoMP-NRE” means the New and Renewable Energy Department, GoMP.

“Governmental Instrumentality” means the:

- GoMP and/ or GoI; and/or

11

- any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of the GoMP; and/or
- any ministry, department, board, authority, agency, commission under the direct or indirect control of Gol; or
- any political sub-division including any court or commission or tribunal or judicial or quasi-judicial body in the state Madhya Pradesh or/and includes the MPERC;
- Supreme Court of India or commission or tribunal or judicial or quasi-judicial body of the Gol, having jurisdiction over [PGCIL or MPPTCL], the [PGCIL or MPPTCL] Land or any portion thereof and the performance of obligations and exercise of rights of the Parties in accordance with the terms of this Agreement.

“INR” means Indian Rupees, the lawful currency in India.

“**Land Use Charges**” shall mean all required charges for the permission to use the [PGCIL or MPPTCL] Land, inclusive of all Taxes, from the Effective Date of [PGCIL or MPPTCL] LUPA, in accordance with the policies of the GoMP for projects under the Administrative Department.

“**Loss**” means all damages, losses, liabilities, costs, expenses, including legal and other professional charges and expenses and charges arising under statute, contract or otherwise in connection with judgements, proceedings, claims, internal costs or demands.

“**Material Adverse Effect**” means the effect of any act or event which causes a material and adverse impairment in the ability of any of the Parties to exercise their rights or perform any of its obligations or consummate transactions under and in accordance with the provisions of this Agreement.

“**MP Solar Policy**” means the Policy for Implementation of Solar Power Based Projects in Madhya Pradesh, 2012, including any amendments thereto, issued by the GoMP.

“**Month(s)**” shall mean a calendar month as per the Gregorian calendar;

“**Permanent Structures**” shall mean the permanent works forming part of the [PGCIL or MPPTCL] Sub-station that are required to be constructed, installed and maintained as such for the implementation of the [PGCIL or MPPTCL] Sub-station.

“**Permanent Ancillary Structures**” shall mean the permanent ancillary works required for the [PGCIL or MPPTCL] Sub-station related activities like construction of [PGCIL or MPPTCL] Sub-station office, staff houses, rest house, guest house, canteen etc.

“**[PGCIL or MPPTCL] Land**” has the meaning ascribed to it in Recital G.

“**[PGCIL or MPPTCL] Sub-station**” has the meaning ascribed to it in Recital E.

“**Prudent Utility Practices**” means the exercise of that degree of skill, diligence and prudence and those practices, methods, specifications and standards of equipment,

safety and performance, as may change from time to time and which are reasonably and ordinarily expected to be used by a skilled and experienced owner, contractor or operator engaged in installation, management, ownership, operation and maintenance of facilities, equipment or systems of the type and size similar to the [PGCIL or MPPTCL] Sub-station.

“[●] Solar [Project or Park]” has the meaning ascribed to it in Recital A.

“SPPD” means [Name of SPPD].

“Taxes” means any Indian taxes including levies, imposts, cesses, duties and other forms of taxation, including income tax, sales tax, value added tax, octroy, entry tax, corporation profits tax, advance corporation tax, capital gains tax, residential and property tax, customs and other import and export duties, excise duties, stamp duty or capital duty (whether central, state or local) on the goods, materials, equipment and services incorporated in and forming part of the [PGCIL or MPPTCL] Sub-station charged, levied or imposed by any Governmental Instrumentality, but excludes any interest, penalties and other sums in relation thereto imposed on any account whatsoever.

“Temporary Structures” shall mean all temporary works of any kind other than permanent structures required to be erected in connection with the implementation of the [PGCIL or MPPTCL] Sub-station and that are incidental or ancillary to the design, engineering and construction of the [PGCIL or MPPTCL] Sub-station and are erected/installed and maintained till the commissioning of the [PGCIL or MPPTCL] Sub-station and removed thereafter.

“Unit[(s)]” has the meaning ascribed to it in Recital E.

“Wilful Default” means a deliberate or conscious breach of this Agreement by any of the Parties which has a Material Adverse Effect on the other Party.

“Year” shall mean 365 Days or 366 Days in case of leap year when February is of 29 Days.

1.2. Interpretation

In this Agreement, unless the context otherwise requires:

- (a) Any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder.
- (b) The references to persons and words denoting natural persons shall include bodies corporate and partnerships, joint ventures and statutory and other authorities and entities.
- (c) The nomenclature of the Agreement, headings and paragraph numbers are for the convenience of reference and shall be ignored in construing or interpreting the Agreement.
- (d) Any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement,

deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference provided that this Article shall not operate so as to increase the liability or obligations of any Party hereunder or pursuant hereto in any manner whatsoever.

- (e) Any reference to any period commencing "from" a specified Day or date and "till" or until" a specified Day or date shall include both such Days and dates.

2. EFFECTIVENESS, TERM AND CHARGES

2.1. Effectiveness

The Agreement shall come into effect from the Effective Date of this Agreement.

2.2. Agreement Period

This Agreement shall remain in force from the Effective Date, for a period of [●] (in words) Year(s) from the date on which the [PGCIL or MPPTCL] Sub-station is commissioned. SPPD shall, within [●] (in words) Days of the commissioning of the [PGCIL or MPPTCL] Sub-station, issue a certificate to GoMP-NRE, with a copy to the [PGCIL or MPPTCL], notifying it of the date on which the [PGCIL or MPPTCL] Sub-station is commissioned.

2.3. Early Termination

This Agreement shall terminate before the Agreement Period if terminated pursuant to Article 6.6 or Article 7 of this Agreement.

2.4. Procedure upon on termination or expiry of this Agreement

- (a) Subject to the Parties agreeing an extension, or fresh allotment, of the land use permission pursuant to Article 2.5 below, upon the expiry or termination of this Agreement in accordance with the terms hereof, GoMP-NRE will have the right to transfer the [PGCIL or MPPTCL] Sub-station to the [MPPTCL or any relevant party deemed suitable for works] (or its successor and permitted assigns), upon the payment of compensation to [PGCIL or MPPTCL] which shall be for an amount equal to the then value of the [PGCIL or MPPTCL] Sub-station. The GoMP-NRE shall communicate, in writing, its decision to [PGCIL or MPPTCL] at least [●] (in words) Days prior to the expiry of this Agreement.
- (b) In the event that GoMP-NRE, upon the expiry or termination of this Agreement, decides against the renewal or fresh allotment of the land use permission pursuant to Article 2.5 below and further decides against transferring the [PGCIL or MPPTCL] Sub-station pursuant to Article 2.4 (a) above, [PGCIL or MPPTCL] shall dismantle and remove the Permanent Structures, Permanent Ancillary Structures and Temporary Structures, including all plant, equipment, personnel, machinery and other structures from the [PGCIL or MPPTCL] Land at its cost and risk and handover vacant and peaceful possession of the land to GoMP-NRE within [●] (in words) Days of the date of expiry or termination as the case may be. In the event that [PGCIL or MPPTCL] fails to remove the [PGCIL or MPPTCL] Sub-station and associated infrastructure, and handover possession of the land in the manner

prescribed hereinabove, GoMP-NRE will have the right to remove and dispose of the [PGCIL or MPPTCL] Sub-station in the manner it deems fit, at the cost and risk of [PGCIL or MPPTCL], and shall take over possession of the [PGCIL or MPPTCL] Land. Any monies that GoMP-NRE recovers from disposal of the [PGCIL or MPPTCL] Sub-station will not be returned to [PGCIL or MPPTCL].

2.5 Extension of the Term

At least [●] (in words) Days prior to expiry of the Agreement, SPPD or [PGCIL or MPPTCL] may request GoMP-NRE for a renewal or fresh allotment of the land use permission for the [PGCIL or MPPTCL] Land for such further period and on such terms as may be mutually agreeable to the Parties and in accordance with the policies of the GoMP. The Parties agree that any such extension shall be at the sole discretion of GoMP-NRE. The GoMP-NRE shall communicate, in writing, its decision on SPPD's or [PGCIL's or MPPTCL's] request at least [●] (in words) Days prior to the expiry of this Agreement.

2.6 Consideration for Land Use Permission

In consideration of the land use permission granted to [PGCIL or MPPTCL] under this Agreement, [PGCIL or MPPTCL] shall pay to SPPD an amount of Rs. [●] annually for the Agreement Period as Land Use Charges. Within [●] (in words) Days of the Effective Date, SPPD shall notify [PGCIL or MPPTCL] of the form and manner in which such payments are to be made to SPPD. It is clarified that the SPPD shall deposit to the "Departmental Receipt Head" of the GoMP-NRE the consideration for the land use permission granted to [PGCIL or MPPTCL] under this Agreement in accordance with the terms of the First LUPA.

3. CONDITIONS SUBSEQUENT

3.1. Satisfaction of conditions subsequent by SPPD:

Within [●] (in words) Days from the Effective Date, SPPD shall handover [●] hectares of land located at villages [●] to [PGCIL or MPPTCL] for its use for the [PGCIL or MPPTCL] Sub-station. It is clarified that the land shall remain in the ownership of GoMP-NRE and SPPD and, under this Agreement, [PGCIL or MPPTCL] is authorized only to use it for the purpose of developing, commissioning, operating and maintaining the [PGCIL or MPPTCL] Sub-station for the Agreement Period.

3.2. Satisfaction of conditions subsequent by [PGCIL or MPPTCL]:

[PGCIL or MPPTCL] shall ensure that it constructs and commissions the [PGCIL or MPPTCL] Sub-station within [●] (in words) Month(s) from the Effective Date. Within [●] (in words) Days of the commissioning of the [PGCIL or MPPTCL] Sub-station, SPPD shall issue a notice to GoMP-NRE informing them that [PGCIL or MPPTCL] Sub-station has been commissioned.

3.3. Consequences of non-fulfillment of Conditions Subsequent

If [PGCIL or MPPTCL] fails to commission the [PGCIL or MPPTCL] Sub-station within the timeline specified in Article 3.2 above, for a reason not attributable to SPPD, GoMP-NRE or a Force Majeure Event, SPPD shall have a right to terminate this Agreement and [PGCIL or MPPTCL] shall be liable to pay Land Use Charges equivalent to 50% of total Land Use Charges for the the remaining Agreement Period.

4. OBLIGATIONS AND RESPONSIBILITIES

4.1 Obligations of [PGCIL or MPPTCL]

- (a) [PGCIL or MPPTCL] undertakes to be responsible at its own cost and risk, for the execution of the [PGCIL or MPPTCL] Sub-station.
- (b) [PGCIL or MPPTCL] shall work with and co-operate in good faith with the GoMP-NRE with respect to all of the obligations and rights hereunder.
- (c) [PGCIL or MPPTCL] shall construct, operate and maintain the [PGCIL or MPPTCL] Sub-station, and pay all Taxes as may be applicable under this Agreement and Applicable Law, including the policies of the GoMP, for owning, operating and maintaining the [PGCIL or MPPTCL] Sub-station.
- (d) [PGCIL or MPPTCL] shall not use the [PGCIL or MPPTCL] Land for any purpose other than for the development of the [PGCIL or MPPTCL] Sub-station and those included in the definitions of Permanent Structures, Permanent Ancillary Structures and Temporary Structures.
- (e) If at any stage during the tenure of this Agreement it is found that the [PGCIL or MPPTCL] Land is being used for any purpose other than as expressly allowed under this Agreement, then the land use permission may be terminated under the provisions of this Agreement and [PGCIL or MPPTCL] shall be liable to pay remaining Land Use Charges (if any) due on the date of Termination.
- (f) [PGCIL or MPPTCL] shall not use more than 5% of the [PGCIL or MPPTCL] Land for the Permanent Ancillary Structures.
- (g) [PGCIL or MPPTCL] shall construct and operate the [PGCIL or MPPTCL] Sub-station in accordance with Prudent Utility Practices throughout the Agreement Period.
- (h) [PGCIL or MPPTCL] shall, for the purpose of safety, fence the [PGCIL or MPPTCL] Land.
- (i) [PGCIL or MPPTCL] shall be liable for environment protection measures within the [PGCIL or MPPTCL] Land in accordance with Applicable Laws and Applicable Permits, and shall not do anything adversely affecting the environment.
- (j) In the event [PGCIL or MPPTCL] requires to dig any well or tube well, or otherwise take water from any water source in the [PGCIL or MPPTCL] Land, it shall do so only in accordance with Applicable Laws and Applicable Permits.
- (k) While using the [PGCIL or MPPTCL] Land, if [PGCIL or MPPTCL] causes any harm or injury to any person/ animal, he shall be liable to pay compensation or damages in the same manner as a tenant of land is generally liable to pay.
- (l) In the event that [PGCIL or MPPTCL] requires to cut any trees on the [PGCIL or MPPTCL] Land, it shall do so only in accordance with Applicable Laws

and Applicable Permits.

- (m) ***Monitoring and supervision of the [PGCIL or MPPTCL] Sub-station:***
[PGCIL or MPPTCL] shall, at all times, grant access to the [PGCIL or MPPTCL] Land to the authorised representatives of the GoMP-NRE and SPPD and to the persons duly authorised by any. Governmental Instrumentality having jurisdiction over the [PGCIL or MPPTCL] Sub-station.
- (n) ***Safety measures:***
[PGCIL or MPPTCL] shall ensure proper safety measures during the implementation of the [PGCIL or MPPTCL] Sub-station, including any geological study, construction and testing on the [PGCIL or MPPTCL] Land, and shall meet minimum safety standards prescribed under Applicable Laws for the safety of all personnel engaged in the design, construction, operation, maintenance and repair of the [PGCIL or MPPTCL] Sub-station. The GoMP-NRE shall have the right to institute an appropriate mechanism to ensure compliance by [PGCIL or MPPTCL] in this regard.
- (o) ***Alternative facilities:***
In case any existing facilities including, but not limited to, roads, bridges, buildings and communication system(s), are affected because of the implementation of the [PGCIL or MPPTCL] Sub-station on the [PGCIL or MPPTCL] Land, [PGCIL or MPPTCL] shall be responsible and bear the cost of taking remedial measures. [PGCIL or MPPTCL] shall not interfere with any of the existing facilities till an alternate facility is created as approved by the concerned Governmental Instrumentality, unless an approval is provided otherwise, in writing by the concerned Governmental Instrumentality.
- (p) ***Maintaining Ecological Balance:***
[PGCIL or MPPTCL] shall be responsible for maintaining the ecological balance by preventing deforestation, water pollution and defacement of natural landscape in the vicinity of the [PGCIL or MPPTCL] Land. [PGCIL or MPPTCL] shall take all reasonable measures to prevent any, unnecessary destruction, scarring or defacement of the natural surroundings in the vicinity of the [PGCIL or MPPTCL] Land.
- (q) ***Use of facilities:***
Subject to availability, security, safety, Applicable Law and operational factors being met, [PGCIL or MPPTCL] shall permit the use, free of cost, by the GoMP and the general public, of all service roads constructed and maintained by it for the [PGCIL or MPPTCL] Sub-station after its commissioning.
- (r) ***Archaeological findings, treasures etc.:***
All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on or in the [PGCIL or MPPTCL] Land shall be deemed to be the absolute property of the GoMP. [PGCIL or MPPTCL] shall take reasonable precautions to prevent its workmen or any other persons from damaging any such article or thing. [PGCIL or MPPTCL] shall arrange to hand over the same to the GoMP-NRE free of cost, provided that, in case any precious or semi-precious material is located, [PGCIL or MPPTCL] shall inform the GoMP-NRE immediately and abide by the directives of the GoMP which shall be communicated within a period of [●] (in words) Days from the date of receipt of such intimation from

[PGCIL or MPPTCL].

- (s) [PGCIL or MPPTCL], while providing employment for construction as well as operation and maintenance activities, shall endeavor to give preference to locals as per their availability and suitability.
- (t) [PGCIL or MPPTCL] shall pay the required land use charges to SPPD in accordance with Article 2.6 of this Agreement.

4.2 Obligations and responsibilities of the GoMP-NRE

(a) ***Land Use Permission:***

The GoMP-NRE hereby grants, and [PGCIL or MPPTCL] hereby accepts the right to use the [PGCIL or MPPTCL] Land (details of which are set out in ANNEXURE I to this Agreement) for the sole and exclusive purpose of developing the [PGCIL or MPPTCL] Sub-station. SPPD shall make the [PGCIL or MPPTCL] Land available to [PGCIL or MPPTCL] in accordance with Article 3.1 of this Agreement.

(b) ***Upgradation of roads and bridges:***

The GoMP-NRE shall permit [PGCIL or MPPTCL] to construct roads, bridges, culverts, and other infrastructure as considered necessary for the [PGCIL or MPPTCL] Sub-station on the [PGCIL or MPPTCL] Land in consultation with the relevant Governmental Instrumentality at the cost and risk of [PGCIL or MPPTCL].

(c) ***Assignment:***

The [●] Solar [Project or Park] Land given for use under this Agreement for development of the [PGCIL or MPPTCL] Sub-station shall not be assigned or transferred by the [PGCIL or MPPTCL] to any other party for any purpose including for the purpose of financing the Units. To the extent required under the Financing Documents, GOMP-NRE shall permit the [PGCIL or MPPTCL] to assign its rights, under the [PGCIL or MPPTCL] LUPA, to a Lender in accordance with the terms of the [PGCIL or MPPTCL] LUPA, provided that nothing contained in this Article shall absolve the [PGCIL or MPPTCL] from its responsibility to perform or discharge any of its obligations under and in accordance with the provisions of the PGCIL LUPA.

4.3 Obligations and Responsibilities of SPPD

SPPD shall ensure that the [PGCIL or MPPTCL] Land is free from all encumbrances and unhindered possession is handed over to [PGCIL or MPPTCL] in accordance with the terms of this Agreement.

5. REPRESENTATIONS AND WARRANTIES

5.1. Representations and Warranties of [PGCIL or MPPTCL]

[PGCIL or MPPTCL] represents and warrants to the GoMP-NRE and SPPD that as of the Effective Date:

- (a) it is duly organized and validly existing under the laws of India, and has all requisite power and has been duly authorized to execute and consummate this Agreement;
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) this Agreement constitutes its legal, valid and binding obligation, enforceable against [PGCIL or MPPTCL] in accordance with its terms;
- (d) the consummation of the transactions contemplated by this Agreement on the part of [PGCIL or MPPTCL] will not violate any provision of, nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which [PGCIL or MPPTCL] is a party or to which [PGCIL or MPPTCL] is bound, which violation, default or power has not been waived;

5.2. Representations and Warranties of the GoMP-NRE

The GoMP-NRE represents and warrants to SPPD and [PGCIL or MPPTCL] that as of the Effective Date:

- (a) the GoMP-NRE has all requisite powers and has been duly authorized to execute and consummate this Agreement;
- (b) the execution and delivery of this Agreement by the GoMP-NRE does not violate the provision of any existing Applicable Law, or of agency or of any contract, undertaking or agreement, to which the GoMP-NRE is a party or which is binding on GoMP-NRE;
- (c) the [PGCIL or MPPTCL] Land has been procured by GoMP-NRE in accordance with Applicable Laws and policies of the GoMP.

5.3. Representations and Warranties of SPPD

SPPD represents and warrants to the GoMP-NRE and [PGCIL or MPPTCL] that as of the Effective Date:

- (a) it is duly organized and validly existing under the laws of India, and has all requisite power and has been duly authorized to execute and consummate this Agreement;
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;

- (c) this Agreement constitutes its legal, valid and binding obligation, enforceable against SPPD in accordance with its terms; and
- (d) the consummation of the transactions contemplated by this Agreement on the part of SPPD will not violate any provision of, nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the SPPD is a party or to which SPPD is bound, which violation, default or power has not been waived.

6. FORCE MAJEURE

6.1 Subject to Article 6.5, Force Majeure shall mean any event or circumstances or combination of events or circumstances that wholly or partly prevents or unavoidably delays any Party in the performance of its obligations under the Agreement, but only if and to the extent that such events and circumstances are not within the reasonable control, directly or indirectly, of the affected Party and could not have been avoided even if the affected Party had taken reasonable care or complied with Prudent Utility Practices and are on account of:

- (a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the [PGCIL or MPPTCL] Sub-station), earthquake, volcanic eruption, landslide, flood, cloud burst, cyclone, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last 100 (hundred) Year(s);
- (b) Compulsory acquisition by any Governmental Instrumentality under the GoMP or the GoI of any material assets or rights of SPPD;
- (c) The unlawful, unreasonable or discriminatory revocation of, or refusal to renew, any Applicable Permits required by [PGCIL or MPPTCL] to perform its obligations under this Agreement or any unlawful, unreasonable or discriminatory refusal to grant any Applicable Permits required for the operation of the [PGCIL or MPPTCL] Sub-station on the [PGCIL or MPPTCL] Land, provided that a competent court of law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes the same down;
- (d) Any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo;
- (e) revolution, riot, insurrection, terrorist or military action.

- 6.2 In the event a Party is rendered unable to perform any obligations required to be performed by it under the Agreement by Force Majeure, the particular obligations shall, upon notification to the other Party, be suspended for the period of Force Majeure.
- 6.3 Upon the occurrence of an event of Force Majeure, the Party claiming that it has been rendered unable to perform any of its material obligations under the Agreement, shall notify the other Party in writing within [●] (in words) Days of the commencement thereof giving the particulars and satisfactory evidence in support of its claim. Upon termination of such event of Force Majeure, the affected Party shall, within [●] (in words) Days of its termination, intimate the other Party of such termination.
- 6.4 Time for performance of the relative obligations suspended by Force Majeure shall then stand extended by the period of delay, which is directly attributable to Force Majeure. The Party giving, such notice shall be excused from timely performance of its obligations under the Agreement, for so long as the relevant event of Force Majeure continues and to the extent that such Party's performance is prevented, hindered or delayed, provided the Party or Parties affected by the event, of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its performance of the obligations under the Agreement.
- 6.5 Force Majeure shall expressly not include the following, except to the extent resulting from a Force Majeure:
- (a) Unavailability, late delivery or changes in cost of plant, machinery, equipment, materials, spare parts, or consumables for the [PGCIL or MPPTCL] Sub-station;
 - (b) A delay in the performance by any contractor(s);
 - (c) Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
 - (d) Strikes or labour disturbance at the facilities of the affected Party;
 - (e) Insufficiency of finances or funds or the Agreement becoming onerous to perform;
 - (f) Non-performance caused by, or connected with, non-performing Party's:
 - (i) Negligent or intentional acts, errors or omissions,
 - (ii) Failure to comply with any Applicable Law, and
 - (iii) Breach of or default under the Agreement.

6.6 Termination Due to Force Majeure

(a) If, prior to the completion of [●] (in words) Days commencing from the date of issuance of a notice of Force Majeure, the Parties are of the reasonable view that:

- (i) the Force Majeure is likely to continue beyond such [●] (in words) Day period or any extended period agreed by the Parties; or
- (ii) that it is uneconomic or impractical to restore the affected [PGCIL or MPPTCL] Land or [PGCIL or MPPTCL] Sub-station,

then the Parties may mutually decide to terminate this Agreement, which termination shall take effect from the date on which such decision is taken.

(b) Without prejudice to the provisions of Article 6.6 (a) above, the affected party shall, after the expiry of the period of [●] (in words) Days or any other mutually extended period, be entitled to forthwith terminate this Agreement in its sole discretion by issuing a notice to that effect. On termination of this Agreement pursuant to this Article 6.6 (b), the consequences of termination that are set out at Article 2.4 shall apply.

7. TERMINATION

7.1 The Parties agree and acknowledge that this Agreement shall not be terminated by any Party for convenience.

7.2 Upon the occurrence of the event set out in Article 3.3, SPPD may issue a preliminary notice to [PGCIL or MPPTCL] providing [●] (in words) Days from the date on which the preliminary notice is delivered to [PGCIL or MPPTCL] to cure the underlying breach set out in Article 3.3. If [PGCIL or MPPTCL] fails to cure the breach within such period allowed, SPPD shall be entitled to terminate this Agreement by issuing a notice of termination to [PGCIL or MPPTCL] which shall set out:

- (a) details regarding the underlying breach;
- (b) the date of termination; and
- (c) any other relevant information.

7.3 Upon the termination of this Agreement pursuant to Article 7.2 above, the consequences of termination set out in Article 2.4 shall apply.

8. GOVERNING LAW, DISPUTE RESOLUTION AND JURISDICTION

8.1 The Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in Bhopal shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

8.2 Amicable Settlement

(a) Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement (**Dispute**) by giving a written notice (**Dispute Notice**) to the other Party(ies), which shall contain:

- (i) a description of the Dispute;
- (ii) the grounds for such Dispute; and
- (iii) all written material in support of its claim.

(b) The other Party(ies) shall, within [●] (in words) Days of issue of Dispute Notice issued under Article 8.2 (a) furnish:

- (i) counter-claim and defences, if any, regarding the Dispute; and
- (ii) all written material in support of its defences and counter-claim.

(c) Within [●] (in words) Days of issue of Dispute Notice by any Party(ies) pursuant to Article 8.2 (a) if the other Party(ies) does not furnish any counter claim or defence under Article 8.2 (b) or [●] (in words) Days from the date of furnishing counter claims or defence by the other Party(ies), the Parties to the Dispute shall meet to settle such Dispute amicably (**Dispute Meeting**). If the Parties fail to resolve the Dispute amicably within [●] (in words) Days from the later of the dates mentioned in this Article, the Dispute shall be referred for dispute resolution in accordance with Article 8.3 of this Agreement.

8.3 Dispute Resolution through Arbitration

(a) *Arbitration Procedure*

If a Dispute is not resolved within [●] (in words) Days after the service of a Dispute Notice, whether or not a Dispute Meeting has been held, any Party to the Dispute shall be entitled to refer the Dispute to arbitration (**Notice of Arbitration**) to be finally resolved in accordance with the Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983.

Notwithstanding the existence of any Dispute, the Parties shall continue to perform their respective duties and obligations under this Agreement.

9. INDEMNITY

9.1 [PGCIL or MPPTCL] shall be responsible for, and release and indemnify the GoMP-NRE and SPPD on demand from and against any and all proceedings, actions, and claims for Losses of whatever kind and nature for:

- (a) sickness, injury, death or personal injury;
- (b) loss of or damage to property;
- (c) infringement of intellectual property rights in any equipment or materials forming part of the [PGCIL or MPPTCL] Sub-station;
- (d) breach of any representations or warranties set out under Article 5 of this Agreement;
- (e) gross negligence or Wilful Default;
- (f) breach of statutory duty; and
- (g) actions, claims, demands, costs, charges and expenses (including legal expenses),

which may arise out of, or in consequence of, implementation of the [PGCIL or MPPTCL] Sub-station and any other performance or non-performance by [PGCIL or MPPTCL] of its obligations under this Agreement.

10. MISCELLANEOUS

10.1 Language

The language of this Agreement is English and Hindi. All notices required to be given by one Party to the other Parties and all other communications, documentation and proceedings which are in any way relevant to the Agreement shall be in writing and shall be in English or Hindi. In the event of any conflict between the provisions of the English and Hindi versions of this Agreement, the provisions of the English version of this Agreement shall prevail.

10.2 Relationship of the Parties

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership or agency or any such other relationship between the Parties or to impose any partnership obligation or liability upon either Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Parties.

10.3 Notices

- (a) Any consent, approval, authorization, certificate, report, information, notice, request from or by any Party, or any other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be effective and valid only when made in writing under the hand of a duly authorised representative of such Party.
- (b) Any contractual notice, instruction, decision, order, report, certificate or other communication that is to be exchanged between the Parties shall be served by sending it by electronic mail or facsimile transmission, with a confirmation copy by courier or registered post to the following addresses:

The communications shall be sent to:

GOMP-NRE: Attention:

Address

Tel:

Fax:

Email:

SPPD: Attention:

Address

Tel:

Fax:

Email:

[PGCIL or MPPTCL]: Attention:

Address

Tel:

Fax:

Email:

- (c) Any notice sent by electronic mail or facsimile shall be deemed to have been received on the date of transmission and any notice served by courier or registered post shall be deemed to be received when actually delivered to the address mentioned above.
- (d) Any change in the address for communication shall be duly notified by the relevant Party to the other Parties in accordance with the provisions of this Article 10.3.

10.4 Severability

If for any reason whatsoever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, illegal or unenforceable provision, as nearly as is practicable to such invalid, illegal or unenforceable provision.

10.5 Waiver

Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligation under this Agreement:

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- (b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party, and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

10.6 Survival

The expiry of the Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under the Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implications, which are to survive after the expiry of this Agreement, which expressly or by their nature survive the Agreement Period or and which shall continue and survive any expiry of this Agreement.

10.7 Entire Agreement

The Parties hereto acknowledge, confirm and undertake that this Agreement constitutes the entire understanding between the Parties regarding the right to use the [PGCIL or MPPTCL] Land and supersedes all previous written or oral representations and/or arrangements regarding the right to use the [PGCIL or MPPTCL] Land. This Agreement may be supplemented, amended, or modified only by the mutual agreement of the parties through the authorization from the Administrative Department. Further, any modifications or amendments in this Agreement shall be in congruence with prevailing policies/rules/regulations of GoMP. No supplement, amendment, or modification of this Agreement shall be binding unless it is authorized by the Administrative Department and in writing and signed by authorized representatives of both parties.

10.8 Counterparts

This Agreement may be executed in 3 (three) counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORISED REPRESENTATIVES AS OF THE DATE AND PLACE SET FORTH ABOVE.

For and on behalf of

For and on behalf of

[PGCIL or MPPTCL]

Commissioner, New & Renewable Energy

Name Designation and Address

Name Designation and Address

Signature with Seal

Signature with Seal

Witness

Witness

1.

1.

2.

2.

For and on behalf of

Rewa Ultra Mega Solar Limited Name Designation and Address

Signature with Seal

Witness

1.

2.

ANNEXURE I

DETAILS OF [PGCIL or MPPTCL] LAND

ANNEXURE IV

IMPLEMENTATION AND SUPPORT AGREEMENT

ANNEXURE V

LAND USE PERMISSION AGREEMENT SIGNED BETWEEN GOMP-NRE AND SPPD